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Carroll, Clinton Roy

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2011

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Re-Imagining Community: Political Ecology and Indigenous State Formation
in the Cherokee Nation

By

Clinton Roy Carroll

A dissertation submitted in partial satisfaction of the

requirements for the degree of

Doctor of Philosophy

in

Environmental Science, Policy, and Management

in the

Graduate Division

of the

University of California, Berkeley

Committee in charge:

Professor Nancy L. Peluso, Chair

Professor Lynn Huntsinger

Professor Nathan F. Sayre

Professor Thomas Biolsi

Spring 2011

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Abstract

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Clinton Roy Carroll

Doctor of Philosophy in Environmental Science, Policy, and Management

University of California, Berkeley

Professor Nancy L. Peluso, Chair

Tribal environmental governance in the Cherokee Nation today is characterized by a complex interplay among community, bureaucracy, and knowledge. The Cherokee Nation is one of the largest American Indian nations by population, and possesses a tripartite government that has operated free of federal oversight since 1971. Although the government has its roots in the historic 1827 Cherokee constitution that in many ways successfully melded “traditional” forms of governance with a state structure, the Cherokee Nation is struggling to reconcile its modern governance structure with the numerous cohesive communities that make up the tribal nation’s cultural base. This situation is acutely illustrated in current tribal environmental projects. Despite the Cherokee Nation’s sophisticated environmental programs that have been functioning under tribal control since the 1990s, only recently have initiatives attempted to fill the “culture gap” that exists between tribal environmental policy and Cherokee environmental knowledge and practices.

This dissertation addresses these issues through the study of one such initiative. Using ethnographic methods, I follow a tribally-funded ethnobotany project that began in 2004 and has developed into a unique and productive collaboration between a group of Cherokee elders, a Cherokee community non-profit organization, and the Cherokee Nation Natural Resources Department. The formation of this group represents a significant connection between government and community, especially because of its focus on knowledge that is deemed sacred and rarely discussed openly. The conditions of the first group meeting – held outdoors, around a fire at a secluded and wooded meeting space (as opposed to a stark conference room at the tribal complex) – speak to its success as an ongoing initiative, and illuminate changing perspectives on knowledge and authority within the tribal government. I propose that these changing perspectives are brought about through a persistent but fluctuating balancing act between Cherokee communities and their formal, centralized governance structures.

Whereas Cherokee society resists centralization, it nonetheless relies on a central government to present a representative body that can confront external political pressures. In tracing Cherokee political history, along with environmental histories of resource politics and Cherokee ecological knowledge, I arrive at conclusions about tribal bureaucracy, state formation, and the

epistemological and political issues of incorporating traditional knowledge into tribal environmental programs. I assert that tribal environmental policy is enhanced when it is approached through sincere collaborative cultural projects like the ethnobotany initiative discussed above. Furthermore, while I acknowledge the problems with imposed forms of political organization in tribal communities, I argue that Cherokee (and, by extension, *indigenous*) engagement with dominant political structures can articulate new forms that offer the possibility of undermining the forces of colonialism while speaking its language – making use of state structures like bureaucracy, constitutional governments, and environmental policy, while nurturing community, cultural protocol, and traditional knowledge. These new articulations have the potential to transform how we think about global politics, and to offer different standards of governance that are not based in the philosophies of imperial states or centered on imperial control.

For my daughter, Liliana.

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Note to the Reader

Throughout the text, I use the terms indigenous, Native, American Indian, and Native American to refer to the descendents of the original inhabitants of North America in what is now known as the United States. “Tribe” is used interchangeably with “nation” to describe North American indigenous nations, and reflects the common usage of the term throughout North American indigenous contexts (although many would agree that “nation” is a more accurate term that also avoids the negative connotations associated with the word tribe). “Tribal” is also used as a descriptor in the context of common phrases like “tribal government,” “tribal environmental policy.” In certain contexts, I use the term indigenous to refer to indigenous peoples worldwide; more often, I use the term to refer to those indigenous nations that have been subsumed by settler-states (the U.S., Canada, New Zealand, and Australia), but who nevertheless continue to maintain their own nationhood and political relationships with the settler-state.

In my ethnographic anecdotes, I use pseudonyms in order to preserve the anonymity of my consultants. Although only some consultants preferred to remain anonymous, I do so across the board in order to prevent any unforeseen nuisances and to maintain the flow of the work. However, when discussing public figures outside of ethnographic contexts, I use real names. All ethnographic material is taken from interviews (both taped and hand recorded) and field notes recorded during my 19 cumulative months of fieldwork in the Cherokee Nation between June 2004 and January 2009.

Preface

The formative research for this dissertation began in the summer of 2004, when I started work on an internship with the Cherokee Nation Office of Environmental Programs (OEP). Having recently completed my baccalaureate studies, I aimed to explore some initial questions in what would become my dissertation field site before beginning my graduate study at Berkeley. Though I had expected to spend that summer carrying out tasks that fit the description of “intern work” (which I would have been perfectly happy with), the opportunity turned out to entail much more. Due in part to my bachelor’s degree in anthropology and American Indian studies, OEP directors were interested in how I could contribute to the development of “cultural” programs within the department (which were practically non-existent at the time).

We had met earlier that spring to discuss ideas for this project. As a result of our conversations, the main idea driving my internship was that local Cherokee knowledge of plants and their ecosystems could improve OEP methods of protecting these environments and would instill the practical application of a “Cherokee land ethic” in everyday environmental decision-making. We proposed that the results of this project could include: (1) stricter tribal regulations for development activities (both tribal and non-tribal), (2) habitat improvement and preservation for culturally significant plants, and (3) the perpetuation of Cherokee environmental knowledge and practices for future generations. The project could also aid in strategic tribal land re-acquisition by buying formerly non-tribal land where culturally significant plants are harvested so as to eliminate any restrictions to traditional resource access. In June 2004, I began work on what was to be the first policy-oriented project of this sort within the Cherokee Nation.

I remember my first day on the job: My supervisor walked into the office with a copy of Grant Foreman’s *The Cherokee Physician* (1857) and suggested that I start by developing an ethnobotanical database based on my research skills and any interviews I could conduct with local Cherokee experts. The book is worth noting because of how it illuminates the situation at hand. Foreman’s book is a rough sketch of Cherokee ethnobotanical healing remedies, written with regard to the Cherokee homelands in what is now a large part of Tennessee, North Carolina, South Carolina, Georgia, Kentucky, and Alabama. With a century-and-a-half old publication date, and an ecological setting that far exceeds the species diversity of the current location of the Cherokee Nation in northeastern Oklahoma (due to the nation’s forced removal by the U.S. government in 1838-9), this spoke volumes to me on the paucity of published material on Cherokee ethnobotanical knowledge generally, and even more so with regard to “western” Cherokee ethnobotany. Although through my own research I found a few more materials on Cherokee ethnobotany, they were also dusty publications that primarily concerned the eastern homelands. Detailed ethnobotanical work had never really been carried out among Cherokees in northeastern Oklahoma, despite the fact that the use of wild plants in arts and crafts, medicine, and for food was still practice among Cherokee communities (although many of my interviewees stressed that this was slowly fading).

I was humbled by the task ahead, but nevertheless, I was excited to lead a project of this sort. Over the next six weeks, I designed a database in Microsoft Access to hold ethnobotanical information about culturally-significant plants, and I began interviews in the Tahlequah area – a small town of about 15,000 and the capital of the Cherokee Nation. I also gave the project an unofficial title, the *Tsalagi-yi Digakohdi* (“Cherokee Plants”) Ethnobotanical Project. Towards the end of the summer, I coordinated a “river trip” with OEP staff and two highly knowledgeable

Cherokee men in order to discuss plants growing along the banks of the Illinois River. Beginning early in the morning, we spent a half-day floating down a stretch of river, stopping frequently to walk around and listen to the two expert participants talk about individual plants and tell stories about local environmental history. The river trip – a method of applied environmental anthropology that I borrowed from my former advisors at the University of Arizona – was overall a success. Both participants enjoyed the chance to compare knowledge with each other, as well as with a tribal biologist who also attended the trip. For me, the river trip was a validation that the ethnobotany project was valuable, and that it had the potential to have practical and positive results for the people. As it came time for me to travel to Berkeley, my supervisors and I agreed that I would come back the following summer and pick up on the project where I left off. In total, I spent three summers working for the OEP on this project before beginning my extended dissertation fieldwork in the Cherokee Nation in 2008.

While I was working within the Cherokee Nation environmental sector, another ethnobotanical research project was forming at the University of Arkansas-Fayetteville. Professor Justin Nolan in the Department of Anthropology, along with Cherokee graduate students Shawna Morton Cain and Roger Cain, have developed a similar initiative supported by the Cherokee Nation Education Department that places specific emphasis on Cherokee language use and preservation as it relates to ethnobotanical knowledge (Nolan et al. n.d.). Dr. Nolan's training and expertise in ethnobotanical research methods (see Nolan 2007) have contributed greatly toward our mutual goal of creating informational stores of knowledge that not only seek to "preserve" such knowledge, but, by nature of the research design, seek to contribute to its perpetuation within Cherokee communities. Professor Nolan and the Cains' research, along with the ongoing OEP project (which is now formally housed within the Cherokee Nation Natural Resources Department), show great promise for understanding contemporary Oklahoma Cherokee ethnobotany and for encouraging its continued practice.

Yet while my research began with the ethnobotany project, the dissertation project developed into an analysis of broader social and political dynamics that I observed in the course of my work. As such, ethnobotany is not the center of this dissertation. Rather, I use the ethnobotany project as a springboard to discuss Cherokee Nation environmental politics and governance. As an initiative conducted through the tribal government, my discussion of the project with participants often raised more conversation about the tribal government than it did about the plants. For example, during the river trip in the summer of 2004, both informants raised the issue of taking the project out of tribal government. They claimed that many others would be reluctant to participate if the project were controlled by "the tribe." As the project is clearly concerned with cultural preservation, the informants wanted to ensure that the project was available for use by "the people." Both having had experience with working for the tribal government, they thought that this goal would be hindered if the project were tied up in a web of bureaucracy.

I had heard similar comments from other interviewees throughout the summer, and my reaction was admittedly surprised. In the early stages of designing the internship, the OEP director and I had considered working with funds from the U.S. Environmental Protection Agency. We ultimately decided that, because EPA funds might have subjected sensitive cultural knowledge to U.S. Freedom of Information Act (FOIA) stipulations, the project should be fully funded by the Cherokee Nation. I saw this as a green light to conduct the work without being hindered by concerns over the knowledge's vulnerability to outside (and potentially exploitative) interests. But whereas this was technically true in that the project would not be subject to FOIA

review under tribal control, after hearing the above comments, full tribal funding did not carry as much significance.

This experience opened my eyes to the skepticism that many Cherokees feel towards the Cherokee Nation government. Additionally, during my first year at Berkeley I came across the work of anthropologist Albert Wahrhaftig (see, e.g., 1968; 1978), who had conducted research among Oklahoma Cherokee communities in the 1960s and had written extensively (and often hyperbolically) about the tense relationship between rural Cherokee communities and the Cherokee Nation government. I even contacted Professor Wahrhaftig, who teaches at Sonoma State University (one hour north of Berkeley), and he graciously invited me to his home to meet and talk about my research. Our conversation focused mainly on the aspects of my work dealing with Cherokee ecological knowledge, as I had come to take for granted his description of the political rifts in Cherokee society. But later, as my ethnographic and historical research progressed, I began to see that there was more to the picture he had presented in his written work. While Wahrhaftig had made important contributions in the study of Cherokee cultural forms and provided a valuable critical assessment of Cherokee politics, my own perspective and observations called into question some of Wahrhaftig's assumptions (as I discuss in chapter 1).

Further, it was discouraging to hear from project participants that the ethnobotany project should be "taken out of government" when the design of the project was so closely tied to the Cherokee Nation environmental sector. If the concern was about the project getting caught up in bureaucracy, wasn't there the possibility that through a project of this sort, we could begin to change the bureaucracy itself? Didn't the value of projects like this one lie in opportunities for structural change? Based on this stubborn determination, and the hunch that the Cherokee sociopolitical world was more complex than others had made it out to be, I decided to pursue these issues in the dissertation as an attempt to better understand them, and to offer insights that encourage new approaches to addressing problems in tribal governance.

I discuss the rift between Cherokee government and community in terms of indigenous state formation, the dynamics of which display a dialectical process wherein people identify the sources of incongruence and then find ways to ameliorate them through dialog and a re-evaluation of how things get done. My work focuses on what the Cherokee Nation government, in the process of developing state-like structures, asks of its citizens; and, conversely, what they expect from it. I ask: What role can state-like structures play in indigenous liberation from neo-colonial paternalism, tribal control over tribal lands and resources, and the recognition of tribal environmental policy? And how is the Cherokee Nation dealing with the demands of a form that many would consider to run counter to indigenous ways of operating? Not all indigenous nations have states, but in the case of many tribal governments, what are these political structures if not states? And how can scholars begin study of them if we don't try to understand their unique processes of formation? As such, the dissertation is centered on tribal environmental governance – the process within indigenous societies by which decisions get made and how things get done with regard to natural resource management (the access, control, and conservation of water, plants, animals, and ecosystems).

My analysis focuses on indigenous nations that have been subsumed by settler-states, particularly in the United States. Consequentially, I should state that indigeneity in this context is more concrete than in other areas of the world. For example, Tania Li (2000) has shown that in Indonesia, the articulation of indigeneity may be used to the advantage of certain groups, while at the same time leaving others in the margins. In the United States, American Indian nations' treaty relationships with the federal government are the foundation of American Indian political

sovereignty (see Wilkins 2007). Despite the fact that many of these treaties have been ignored or otherwise “abrogated” by the federal government (Wilkins and Lomawaima 2001: 143-175; Wilkinson and Volkman 1975), this foundation continues to maintain a distinct political relationship between the settler-state and indigenous nations. I explore the dynamics of this relationship in the context of indigenous (specifically Cherokee) state formation, although we will see that these formations deviate from common conceptions of the term “state.” Additionally, throughout the work I approach the study of the Cherokee Nation state with attention to structural aspects (e.g., the workings of tribal bureaucracy), as well as from a post-structural perspective of networks and relational forms of state power. In the course of my analysis, it became clear that consideration of both the structure of Cherokee government, and the process by which government actors fulfill their duties in relation to ordinary tribal citizens, is necessary for understanding Cherokee ideologies of organization and governance.

Theoretically, I hope the dissertation appeals to scholars in a wide array of fields, including Native American and Indigenous Studies, Environmental Studies, Political Science, Anthropology, and Geography. Also, more practically, I hope it speaks to American Indian and other settler-state indigenous nations in their respective initiatives to further assert tribal sovereignty and maintain strong nations. While the nuances of the work are specific to the Cherokee Nation, I hope that viewing the issues in the context of indigenous settler-state politics at large is of value to others. Furthermore, although the precision of my argument decreases the further it gets from its contextual origins, I do not wish to preclude the formation of discussions outside of this context. For example, while indigenous resistance in Latin America may take different forms than those within settler societies due to disparate political histories, indigenous engagement with state structures holds interesting possibilities – the most notable of which is the election of indigenous (Aymara) leader Evo Morales to the Bolivian presidency in 2006. One recent instance of counter-hegemonic change that has resulted from Morales’ leadership is the passage of “the Law of Mother Earth” in Bolivia in 2011, which represents one of the world’s first laws that grants “all [of] nature equal rights to [those of] humans” (Vidal 2011). Such an act is unquestionably a bold assertion of values (romanticized or not) that runs counter to the history of state-sponsored resource exploitation.

Methodological Discussion

Following anthropologist Kirk Dombrowski, I present this dissertation as an “ethnography of a problem, as opposed to a ‘people’” (2001: 4). I focus on the ethnobotany project as a primary area of analysis, viewing “the state,” as Corrigan and Sayer (1985) suggest, through its manifestations in particular projects. I conceptualize my intellectual project as “insider border work” (Mignolo 2000) that focuses on the process of alliance-building between sectors of a single “subaltern” society, and the resulting articulations that are produced out of these coalitions. Studying institutional change as the product of coalitions allows us to visualize what Gillian Hart calls “relational comparison,” whereby, “[i]nstead of comparing pre-existing objects, events, places, or identities, the focus is on *how* they are constituted in relation to one another through power-laden practices in the multiple, interconnected arenas of everyday life” (2006: 996). Thus, the constructions of tribal government and community, tribal complex and rural area, scientific and traditional knowledge, et cetera, get broken down to a practical level

where, rather than their distance from each other, one can focus more on the connections between them and the potential to mobilize these connections to solve problems.

Hart's concept of "critical ethnography" is also valuable, as it acknowledges linkages to, and influence from, external forces (ibid.). Critical ethnography moves beyond case studies that seek to explain deviation or conformity to broader, ideal-typical forms. Rather, critical ethnography recognizes that "particularities or specifics arise through *interrelations* between objects, events, places, and identities; and it is through clarifying how these relations are produced and changed in practice that close study of a particular part can generate broader claims and understandings" (ibid, emphasis in original). Instead of an ethnography of "what is there" (taking for granted established social forms and relations), following Hart, I will focus on how social institutions are being formed (looking at processes) and what they have the potential to become (see Graeber 2001). As Hart emphasizes, this method allows us to envision alternatives – "new understandings of the possibilities for social change" (2006: 996).

The work is based on 19 cumulative months of ethnographic fieldwork in the Cherokee Nation. In addition to my work during the summers of 2004-2006, from April 2008-January 2009, I conducted ten months of continuous fieldwork, working with the Cherokee Nation Natural Resources Department (NRD) staff. Taking on the subject of this dissertation has never been an easy task. The decision to study a topic so entrenched in tribal politics resulted from my inability to ignore it. In many of my conversations with community folks, I sensed ambivalence toward the tribal government – an uncertain mixture of pride and skepticism – and a feeling that things could be better. And, in many conversations with tribal officials and employees, I sensed sincere frustration with how relations with rural communities were structured, and a desire to change how things get done. Although I do not claim to provide any absolute "fix" to this situation, I view this work as a step toward better understanding the sources of the problems, and as offering insights that might lead to solutions.

This work has been especially personal. I am an enrolled Cherokee Nation tribal citizen, although I grew up in Dallas, Texas, away from the Cherokee Nation land base in northeastern Oklahoma. My ancestors, who bore the Cherokee surname Sevier, came to the Indian Territory in 1839 on the Trail of Tears, and first settled in what would soon be the Illinois district of the Cherokee Nation (present-day Sequoyah County). In time, they moved across the Arkansas River and settled in the Canadian district at the westernmost edge of the Ozark foothills. The vicinity would soon become known as Hogshooter's Place, after my great-great-grandfather Reverend John "Hogshooter" Sevier, although today the area is called Brewer's Bend. The Seviars (and later, the Carrolls) eventually inhabited the nearby towns of McLain and Warner, and now most of my relatives live in the town of Muskogee, Oklahoma at the very perimeter of the Cherokee Nation border.

My research has been a cherished opportunity to reconnect with family and to forge important ties with Cherokee communities and individuals. While living in Tahlequah, I was able to spend time with relatives, study the Cherokee language, learn from tribal elders, and establish connections to place. My work with the Office of Environmental Programs, and later the Natural Resources Department, enabled me to get out on the land and better understand the ecology and geography of northeast Oklahoma. Working for the Cherokee Nation also exposed me to numerous cultural revitalization initiatives taking place at the time, including adult immersion Cherokee language classes. During my fieldwork I volunteered for the Cherokee Nation Self-Help Housing Program, and as a result I spent time pouring concrete foundations with a crew of four other Cherokee men. Out of this experience came new friendships, two of

which led to me playing lead guitar in their band called Joshua Street – a Christian rock ensemble associated with Calvary Southern Baptist Church in Stilwell, Oklahoma. And through the gracious invitations of friends, I also spent time at Cherokee stomp grounds, participating in and learning about older forms of Cherokee worship. All of these experiences contributed greatly to my education both as a Cherokee and an ethnographer, and I am grateful for such an opportunity.

Writing about one's own community (and its politics!) can be daunting. Doing ethnography as a Native researcher, while a positive statement of change in the relationship between anthropology and American Indians, poses difficult questions (see Medicine 2001). For instance: How do you enter into a dialog about the nature and form of tribal government without appearing overly critical? How do you discuss factionalism while not letting it define the community or structure your analysis? These questions speak to issues of accountability. Shawn Wilson (Cree) argues that Native researchers are held to higher levels of accountability – something he terms “relational accountability” to describe the ongoing familial and relational commitments many Native researchers must maintain during and after the research process (2008: 97-125). Furthermore, the work is expected to benefit the community in practical and tangible ways. In other words, the research must be accountable in terms of its applicability to community needs.

Such accountability to the research “subjects” has historically been disputed by those who claim that this dynamic compromises the “objectivity” of the data. Yet, recently, a critical response has flowed from indigenous researchers and academics, who claim that this assertion only serves to reinforce imperial/colonial perspectives that have characterized many social science research practices. Linda Tuhiwai Smith's *Decolonizing Methodologies* (1999) is acknowledged as a breakthrough work for understanding the role of research both for and by indigenous peoples. A Maori scholar, Smith's work involves critically understanding the “assumptions, motivations and values which inform research practices” (20). Smith asserts that while not totally rejecting all theory or research founded in Western knowledge, “decolonizing methodologies” is about “centering our [indigenous] concerns and world views and then coming to know and understand theory and research from our own perspectives and for our own purposes” (39). Smith maintains that indigenous research “should set out to make a positive difference for the researched” (191).

As such, I aim to promote healthy dialog about tribal governance and environmental policy in the Cherokee Nation while maintaining my relational accountability to the people and to the integrity of the nation. This is a fine line, but one that I think is possible in light of Robert Warrior's commentary on Native research (Warrior 2006). I believe one can maintain relational accountability without compromising “a critical discourse that is willing and able to stand against the tide, calling into question the moral and ethical basis of the assumed authority of every and any claim to power” (216). Most would agree that healthy dialog that engages with the tough issues of indigenous governance in a productive way is essential to the well-being of indigenous nations. Ultimately, the work is invested in helping to build a strong Cherokee Nation, as I am invested in positively contributing to it as a tribal citizen.

I view this contribution both in terms of applied work and in theory. On an applied level, my work engages tribal environmental policy and cultural revitalization through the ongoing ethnobotanical project. This is a lifetime endeavor, and I view the current stage as just the beginning of an enduring initiative. I also think there is value to generating theory, and that such theory, in the case of Native American Studies, can engage with the mainstream while drawing

on tradition to produce something new. Stuart Hall provides a valuable outlook on the act of theorizing:

The purpose of theorizing is not to enhance one's intellectual or academic reputation but to enable us to grasp, understand, and explain – to produce more adequate knowledge of – the historical world and its processes; and thereby to inform our practice so that we may transform it (Hall 1988: 36).¹

My hope is that this work contributes to, and encourages what Hall describes as “going on theorizing,” or the continuation of theory in a way that takes a stance but leaves space for future contributions (Hall 1986: 60).

Setting of the Dissertation

The Cherokee Nation is the largest in population (numbering just under 300,000 tribal citizens) of three federally recognized Cherokee tribes, including the Eastern Band of Cherokee Indians in North Carolina, and the United Keetoowah Band of Cherokee Indians also headquartered in Tahlequah.² Comprising most of 14 counties in northeastern Oklahoma, the historical Cherokee Nation boundary is now known as the Cherokee Nation Tribal Jurisdictional Service Area (TJSA), and is represented in Figure 0.1.³ Because Cherokee Nation lands were deeded in fee simple by the U.S. government as a result of the forced relocation of the nation in the late 1830s, and subsequently annexed by the federal government during the Allotment Era of the late 19th century, the Cherokee Nation TJSA is neither a reservation nor a contiguous land base. In fact, tribal trust lands within the TJSA are sparse (totaling roughly 45,000 acres), and are concentrated mostly in Adair and Delaware Counties – remnants of the “undesirable” hill country that was not annexed by the Dawes Commission during Allotment.⁴ The remaining pattern of land ownership within the TJSA is a checkerboard of federal, state, private (Cherokee and non-Cherokee), and “restricted” individual trust lands.⁵ A rough estimate of such restricted

¹ I thank my colleague, Noer Fauzi Rachman, for introducing me to Hall's quote on this topic and for offering this perspective of theory.

² From www.cherokee.org. The most recent U.S. Bureau of Indian Affairs American Indian Population and Labor Force Report (2005) lists the Cherokee Nation population as 257,824. In the same report, the Eastern Band numbers 13,562, and the United Keetoowah Band 11,582. (<http://www.bia.gov/WhatWeDo/Knowledge/Reports/index.htm>). The total number of Cherokee Nation citizens includes at-large citizens living outside Cherokee Nation territory.

³ “Jurisdictional area” refers to the varying levels of civil, criminal, and environmental jurisdictional powers held by the Cherokee Nation within these borders.

⁴ “Tribal trust land” is land that was not allotted by the Dawes Commission or was otherwise acquired by the Cherokee Nation through purchase since the Indian Reorganization Act of 1934. This land is owned by the Cherokee Nation, but held “in trust” by the federal government. Trust status means that certain restrictions apply on what can be done with the land (overseen by the Bureau of Indian Affairs), including resource extraction and development. Property taxes on trust land do not apply, and the actual title to the land is held by the federal government. (Anderson and Lueck 1992)

⁵ The term “restricted land” refers to individual allotments whose owners or heirs have maintained a blood quantum of one-half or more. The Dawes Commission enacted this policy under the notion that the more biologically Indian a person was, the less economically competent, therefore prohibiting the individual from alienating the land. Restricted land that did not fall out of trust status (via blood quantum) still remains restricted and non-taxable today, either as “restricted fee” or “trust allotted,” the difference being who holds the title (the individual and the BIA, respectively). Collectively, these two terms are referred to as “individual trust.” (Anderson and Lueck 1992)

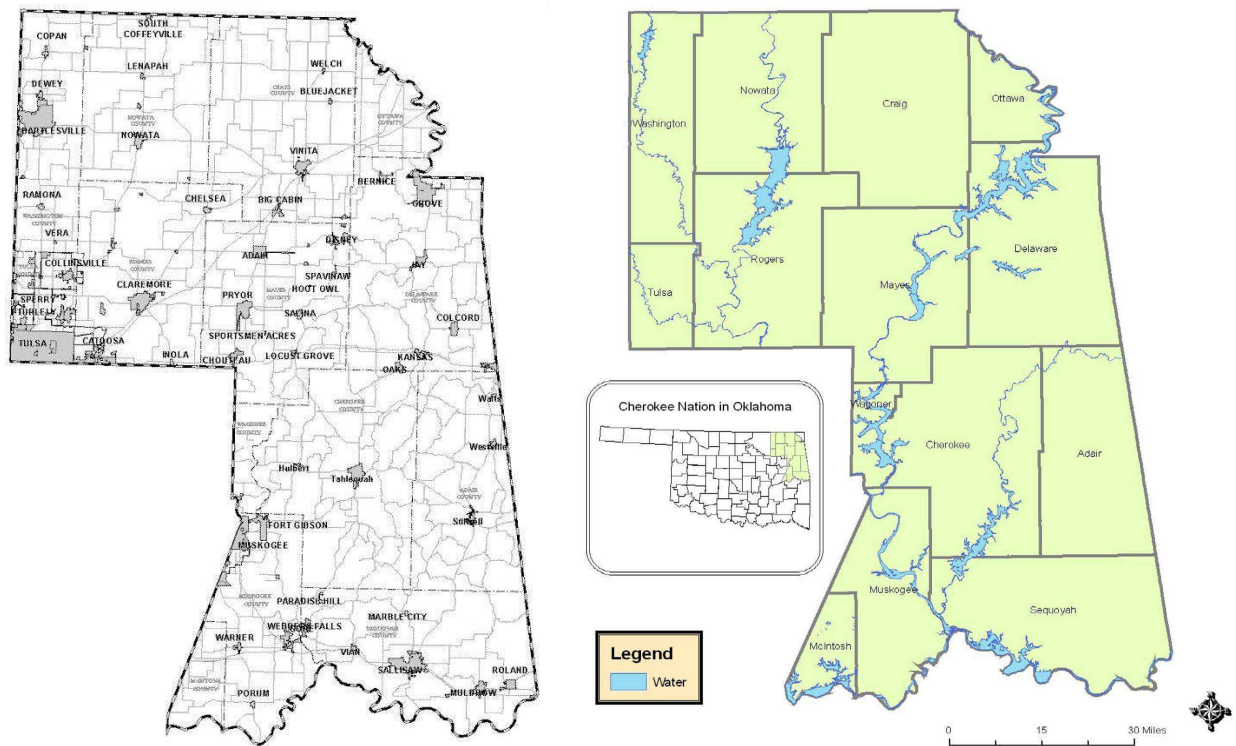


Figure 0.1. The current Cherokee Nation 14-county tribal jurisdictional service area (TJSA) showing water ways, county lines, and major towns. Courtesy of Cherokee Nation (left), and Dr. Justin Nolan, Department of Anthropology, University of Arkansas-Fayetteville (right).




lands in the Cherokee Nation is also 45,000 acres. Another 10,000 acres of tribal land has been retained along the Arkansas riverbed due to recent litigations with the state of Oklahoma. In sum, tribal land in the Cherokee Nation numbers about 100,000 acres, only a small fraction of what was once owned in full by the nation.

Within the five-county area of Cherokee, Sequoyah, Adair, Delaware, and Mayes Counties exists a network of rural, tight-knit Cherokee settlements that have maintained degrees of historical and cultural continuity since arrival in the area after Removal (see Figures 0.2 and 0.3) (Wahrhaftig 1968). It is in these settlements – now mostly referred to as communities – where the cultural, linguistic, and religious aspects of Oklahoma Cherokee peoplehood are lived and grounded. Although outnumbered by whites in the area, Cherokees make up the largest minority in these counties. Economic conditions are generally poor for all demographic groups throughout the region; nevertheless, Cherokee incomes often fall below those of their white neighbors.⁶ While Cherokee communities exist in all areas of the Cherokee Nation, my research primarily focuses on those within the five-county region.

⁶ According to the 2000 U.S. Census, in Adair County (42.49% Native American), 23.20% of the population was below the poverty line; in Delaware County (19.64% Native American), 19.80% of the population was below the poverty line; and in Cherokee County (32.42% Native American), 22.90% of the population was below the poverty line. These numbers can be compared to Tulsa County (5.2% Native American), where 11.60% of the population was below the poverty line. See also Sturm (2002: 10).

CHEROKEE SETTLEMENTS NORTHEAST OKLAHOMA

KEY

-  less than 20 households
-  20 to 30 households
-  more than 30 households

**CHEROKEE SETTLEMENTS IN NORTHEAST
OKLAHOMA, 1963**

- | | |
|---------------------|---------------------|
| 1. Grove | 38. Park Hill |
| 2. Honey Creek | 39. Welling |
| 3. Drowning Creek | 40. Barren |
| 4. Jay | 41. Wauhilla |
| 5. Brush Creek | 42. Sugar Mountain |
| 6. Ribbon | 43. Echota |
| 7. Spavinaw | 44. Mulberry Hollow |
| 8. Eucha | 45. Fairfield |
| 9. Piny | 46. Stilwell |
| 10. Wycliffe Creek | 47. Barber |
| New Jordan | 48. Lyons Switch |
| 11. Kenwood | 49. Cherry Tree |
| 12. Bull Hollow | 50. Honey Hill |
| 13. Cloud Creek | 51. Salem |
| 14. Salina | 52. Qualls |
| 15. Locust Grove | Burnt Cabin |
| 16. Little Rock | 53. Cookson |
| Snake Creek | 54. Bunch |
| 17. Rose | 55. Greasy Creek |
| 18. Leach | 56. Bell |
| 19. Twin Oaks | 57. Oak Ridge |
| 20. Bittle Kansas | 58. South Greasy |
| 21. Bellou | 59. Rock Fence |
| 22. Oaks | 60. Nicut |
| 23. Rocky Ford | 61. Vian Creek |
| 24. Chewey | 62. Marble City |
| 25. Johnson Prairie | 63. Bellefont |
| 26. Moodys | 64. Braggs |
| 27. Fourteen Mile | 65. Sourjohn |
| Creek | 66. Notchietown |
| 28. Hulbert | 67. Blackgum |
| 29. Spring Creek | Mountain |
| 30. Tablequah | 68. Vian |
| 31. Red Oak | 69. Sycamore |
| 32. Elm Tree | 70. McKey |
| 33. Briggs | 71. Pricas Chaple |
| 34. Christie | 72. Warner |
| 35. Old Green | 73. Oak Grove |
| 36. Peavine | 74. Muldrow |
| 37. New Greenleaf | |

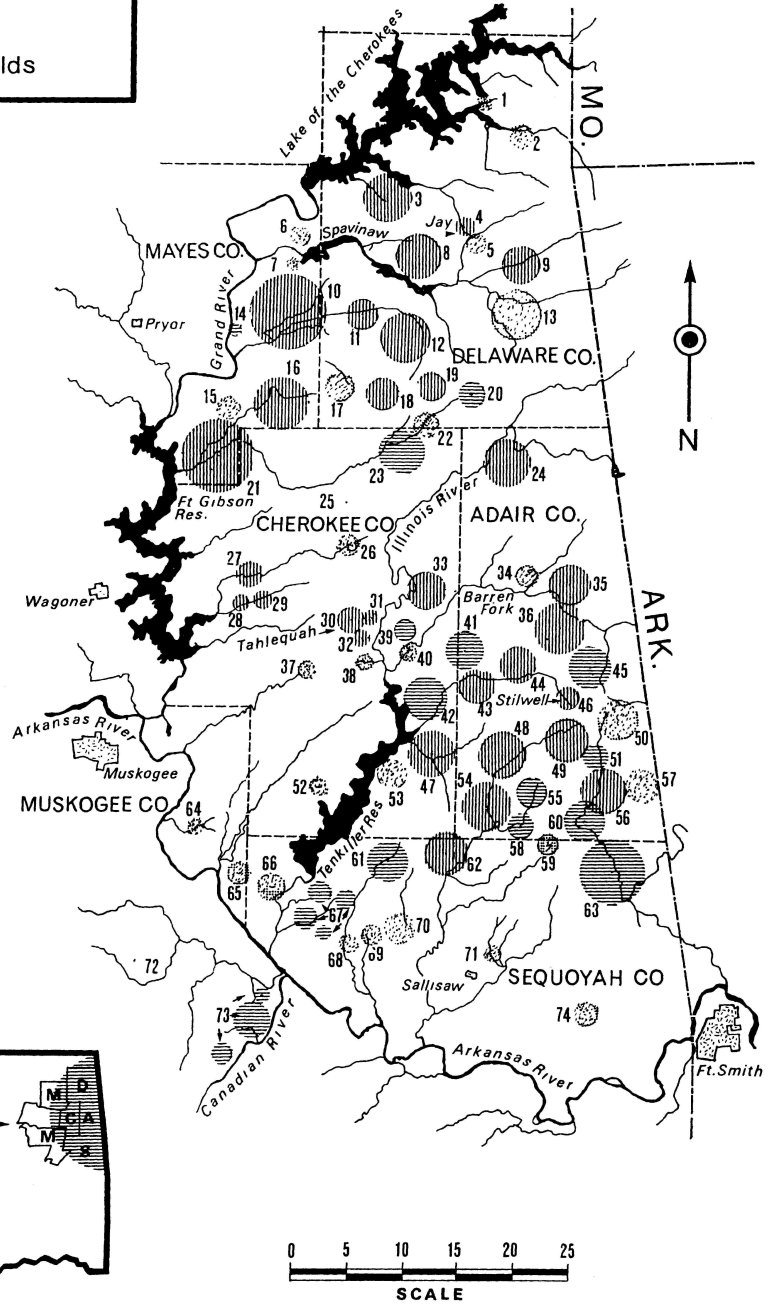


Figure 0.2. Cherokee communities in 1963. From Wahrhaftig (1968).

Native American Population

Cherokee Nation, 2000

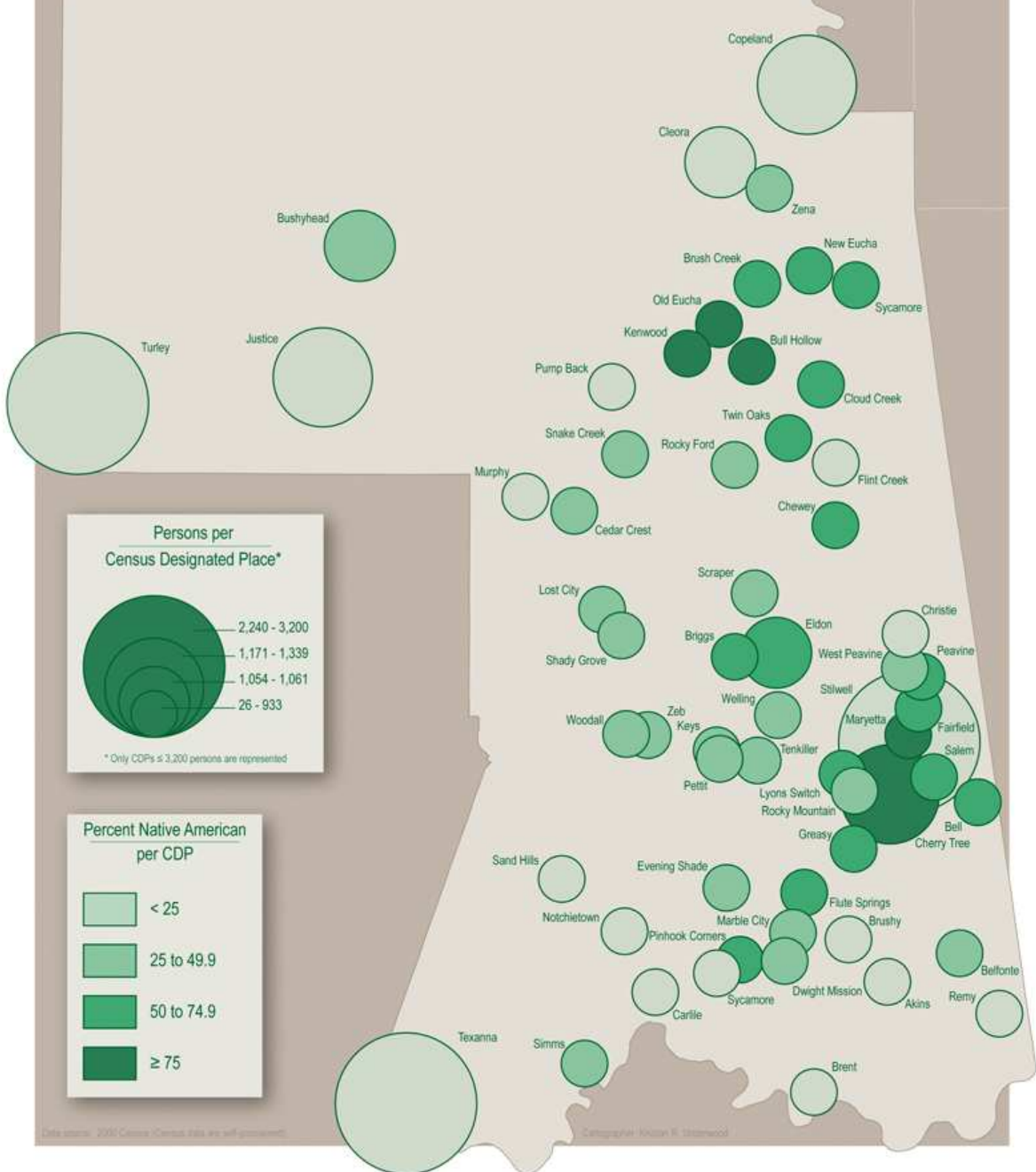


Figure 0.3. Cherokee communities represented by U.S. Census data, 2000. Courtesy of Dr. Justin Nolan, Department of Anthropology, University of Arkansas-Fayetteville.

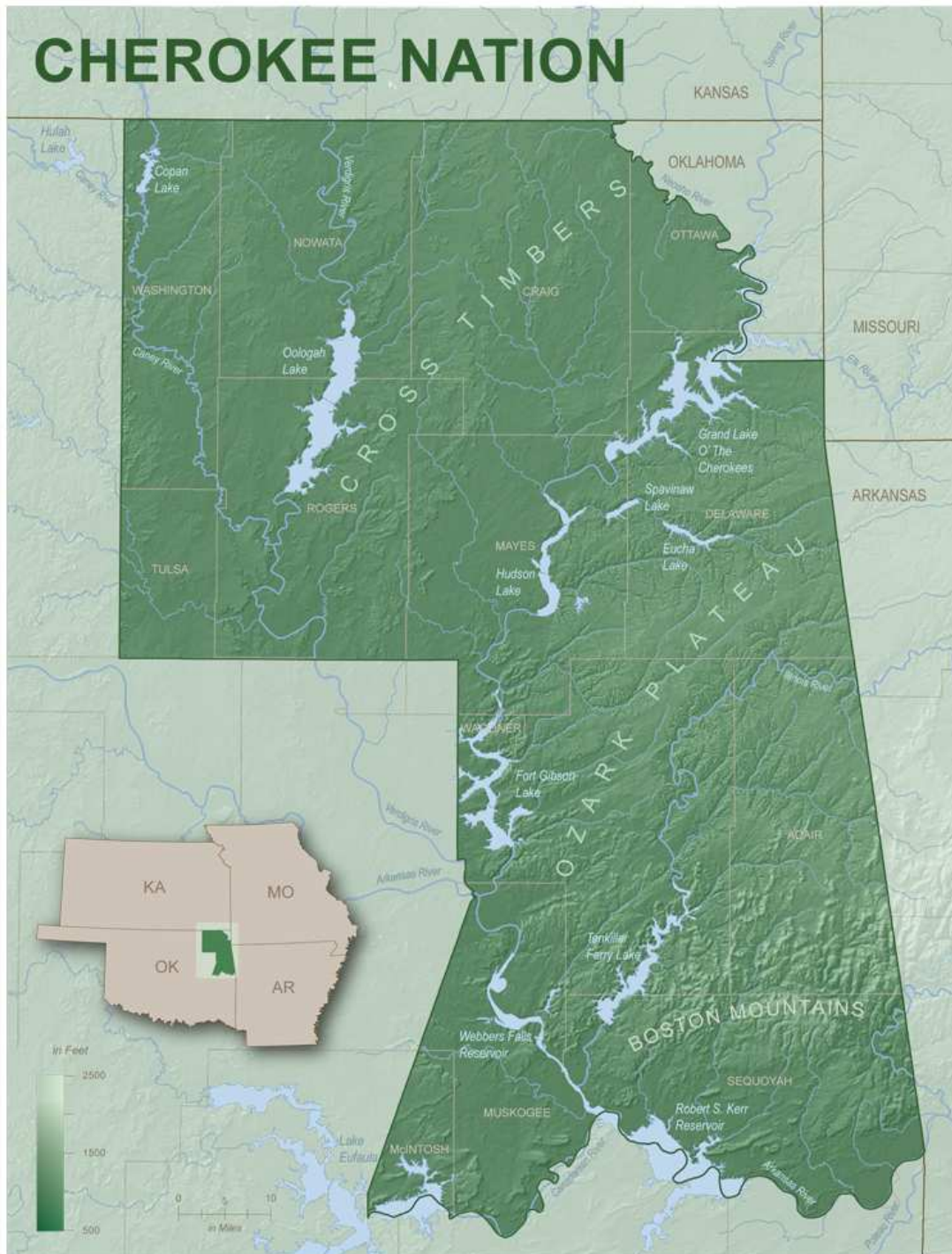


Figure 0.4. Topographical detail of the Cherokee Nation Tribal Jurisdictional Service Area. Courtesy of Dr. Justin Nolan, Department of Anthropology, University of Arkansas-Fayetteville.



Figure 0.5. Typical western Ozark landscape. Photo by author.

The landscape of the Cherokee Nation TJSA is characterized by lush deciduous forests and rolling hills to the east (coinciding more or less with the five-county area mentioned above), and prairie flatlands in the west (Figure 0.4). Lakes, rivers, streams, and springs abound throughout the area, giving the Cherokee Nation and northeastern Oklahoma an edge in the recreational tourism market. The Illinois River that intersects Cherokee County is known for its meandering pace and scenic vistas, and the numerous resorts and raft rental businesses alongside the adjacent Highway 10 make it a popular summer destination.

The Cherokee Nation tribal government operates under the 1999 Cherokee Nation constitution, which maintains a tripartite body consisting of executive, legislative, and judicial branches. The executive branch consists of a Principal Chief, a Deputy Principal Chief, three cabinet positions (Secretary of State, Treasurer, and Secretary of Natural Resources), an office of Attorney General, and an office of Marshal. The legislative branch consists of a Tribal Council of 17 elected members – 15 of which represent the citizens who live within districts of the Cherokee Nation TJSA, and two at-large council members who represent citizens that live outside of the nation’s boundaries. The judicial branch maintains two primary tribal courts: a Supreme Court and a District Court. The District Court deals with criminal, civil, and juvenile matters within the 14-county area, while the Supreme Court attends to cases of appeals and other cases as conferred by statute.

The historic Cherokee Nation courthouse building in downtown Tahlequah still houses the Cherokee Nation judicial offices; however, the rest of the Cherokee Nation governmental and service offices are headquartered just south of town in the W.W. Keeler Tribal Complex (Figure 0.6). Established in 1979, and named after the Cherokee Nation’s first popularly elected Principal Chief since Oklahoma statehood in 1907, the tribal complex has been described by Sturm (2002: 84) as “a low-slung, angular, brown-brick giant that seems to sprawl across the ground with limbs akimbo. ... The place is clean, modern, and has an institutional feel, with



Figure 0.6. Cherokee Nation W.W. Keeler Tribal Complex. Photo: Public Domain.

buzzing fluorescent lights and the click of heeled shoes across linoleum.” Sturm’s depiction aptly describes the drab architecture and bureaucratic atmosphere of the building.

Cherokee Nation roles outside of government consist of numerous services and management responsibilities, including: Community Services, Career Services, Health (the Cherokee Nation now maintains the W.W. Hastings Memorial Hospital in Tahlequah, formerly operated by the Indian Health Service), Education, Natural Resources, Finance, Legal, and so on. In all, the Cherokee Nation employs around 3,000 individuals, not including those employed by Cherokee Nation Enterprises and Cherokee Nation Businesses. With such an infrastructure and employee base, the Cherokee Nation political influence is significant. Its contribution to the state economy through jobs, tribal casino revenues, roads, and other elements of county infrastructure within the TJSA has firmly established its presence in northeastern Oklahoma, and has earned it a leading role in local, tribal, and state-wide affairs.

Thus, the Cherokee Nation is at once a place, a people, a government, and a large sophisticated bureaucracy. In short, it is an indigenous nation-state. What follows in this dissertation is the story of how the Cherokee Nation has arrived at this point, and how tribal leaders (both in the government and in the communities) are continually modifying state practices in order to bridge the literal and symbolic gap between government and community. Through viewing this process in such a context, I hope to address issues of tribal governance and state formation productively – opening up paths of thought that emphasize agency and transformation.

Acknowledgements

My graduate work was generously supported by a UC Berkeley Graduate Opportunity Program fellowship (2004), a U.S. Environmental Protection Agency Science to Achieve Results (STAR) fellowship (2005-2007), a National Science Foundation Graduate Research fellowship (2007-2010), and a Morris K. and Stewart L. Udall Foundation Environmental Public Policy and Conflict Resolution Ph.D. Dissertation fellowship (2011), with additional support from the UC Berkeley Graduate Division. I owe many thanks to these institutions and the members of their respective review committees.

I extend my deep gratitude to the many Cherokee individuals and communities that opened their doors to me and welcomed me as family. Out of respect for their anonymity, I will refrain from listing names, but suffice it to say that without the help and kindness of many folks in the communities of Marble City, Pinhook Corner, Kenwood, Greasy, Lost City, Rocky Mountain, Fairfield, Tahlequah, and Bunch, this work could not have been done.

Few are given the opportunity to develop the foundation of their dissertation project before entering graduate school. Nancy John, Director of the Cherokee Nation Office of Environmental Programs, detoured from her ever-full agenda to notice a persistent young researcher, and subsequently pulled all the strings necessary to arrange for my employment with the Cherokee Nation during each of my visits. Thank you for your unending support and advocacy. I also owe many thanks to Jeannine Hale, former Administrator of Cherokee Nation Environmental Programs, for her strong support of my work, and for her own work with environmental issues during her time at the Cherokee Nation. Pat Gwin and Mark Dunham provided friendship and support for my work with the Cherokee Nation Natural Resources Department. Thanks also to Angela Drewes, Cherokee Nation Management Resources Group Leader, and to all the interns and staff members of the Cherokee Nation Office of Environmental Programs and Cherokee Nation Natural Resources Department for their help along the way.

Dr. Richard Allen, Cherokee Nation Policy Analyst, never ceased to offer his time for discussions and his thoughts on my research, and has become a friend and mentor in the process. The staff of the Cherokee Nation Community Services Office also provided friendship and valuable thoughts and reactions to my work, namely John Ross, Nancy Scott, Sam Ed Bush Jr., and Charlie and Doris Shell. The support and encouragement of Community Services Group Leader Charlie Soap was especially uplifting. Marvin Jones, Director of Cherokee Nation Self-Help Programs, is as fine a Cherokee intellectual as I have ever met, and I thank him for his insights on my work. Myra Robertson, Director of Blue Sky Water, Inc. (a Cherokee community nonprofit organization) and an officer for Cherokees Helping Initiate Progress (CHIP), has been a friend and a source of guidance throughout my work. Many other folks at Cherokee Nation have contributed in various ways to the development of my research, most notably the fine folks in the Department of Education. Thank you. When I was just beginning my work in Tahlequah, the staff of the Cherokee Heritage Center in Park Hill befriended me and offered suggestions and contacts for the project. Thanks to Tonia Weavil, Becky Adair, Gene Norris, Roy Hamilton, Josiah, Robert Lewis, and Perry and Kathy Vanbuskirk for their help and friendship.

Instructors Harry Oosahwee and Wyman Kirk of the Northeastern State University Cherokee Language Program welcomed me into their offices as a student of the Cherokee language. Wyman graciously donated time and materials for my unofficial independent study of

the language in fall 2008. As a fellow academic and Cherokee ethnographer, we quickly became friends, and I appreciate deeply our conversations and his willingness to share his work with me. I also thank Reverend Ed Jumper, Cherokee language specialist and instructor, and all the students and staff of the Cherokee Language Program for creating such a welcoming and collegial environment for anyone who wants to learn the language. *Wado nigadawu!*

The Cherokee Elders Council, a small nonprofit organization based in Locust Grove, invited me to present my work on the ethnobotany project during one of their meetings in the summer of 2006. There I met Owen Scott, who had begun work on a similar project on a volunteer contract basis with the Cherokee Nation in the 1990s. Unfortunately, due to the financial demands of a project of this sort, and a lack of funding commitment for the project from the tribal government, Mr. Scott was unable to develop his project fully. However, Mr. Scott is still very passionate about this kind of work, and I have benefited greatly from our conversations and his experiential knowledge. His report, entitled “Report to the Cherokee Nation on the Cherokee Cultural/Environmental Resources Preservation Project,” is an eye-opening assessment of the institutional requirements necessary for maintaining a permanent program of this sort within the Cherokee Nation. Published in 1991, the report was way ahead of its time, and the Cherokee Nation still faces many of the issues Mr. Scott raises therein. When I first read the report in 2006, I was amazed to see that much of the recommendations based on my own work echoed those of Mr. Scott. Since then, I have been an advocate of disseminating his report in hopes that his proposals, along with those that have arisen out of my own work, will find the necessary support (financial and otherwise) in order to develop a lasting tribal program for cultural resources.

Many have helped me academically in the course of my undergraduate and graduate education. As an undergraduate at the University of Arizona, Professors Richard Stoffle, Nancy Parezo, Tom Holm, Diane Austin, John Olsen, and Jay Stauss guided me intellectually and supported me as a young scholar. Sincere thanks to the staff and directors of the University of Arizona Summer Research Institute and the Ronald E. McNair Program for giving me financial and intellectual support for my undergraduate research, and for helping me achieve my goal of attending graduate school. At UC Berkeley, I thank my advisor and dissertation chair Nancy Peluso for recognizing my potential and helping a first-generation Ph.D. student successfully navigate the demands of graduate school. I also thank Nancy for guiding me in directions outside of my intellectual comfort zone and thus exposing me to valuable approaches and theories that have ultimately strengthened my work. Professor Nathan Sayre stands out as a mentor par excellence – both intellectually challenging and incredibly dependable. Professor Thomas Biolsi provided a much-needed sounding board for my ideas in the context of Native American and Indigenous studies, and by doing so, provided both a challenging and familiar intellectual space in which to hash out my dissertation topic. Professors Lynn Huntsinger, Louise Fortmann, Jeff Romm, Isha Ray, Claudia Carr, Philip Frickey, and Kimberly TallBear also deserve special thanks for their extra guidance and support. I also thank my friends and colleagues in the Department of Environmental Science, Policy, and Management, who helped make graduate school a very memorable time: Dan Fahey, Josh Dimon, Kristin Reed, Dorian Fougères, Noer Fouzi Rachman, Logan Hennessey, Chuck Striplen, the late Nathaniel Gerhart, and all the members of my 2004 incoming cohort. And thanks to Carmen Foghorn, Director of the American Indian Graduate Program at UC Berkeley, and the members of the American Indian Graduate Student Association, for providing a lively and supportive Native community at Cal.

Other academics outside of UC Berkeley have contributed to my intellectual growth in significant ways. Cherokee Nation citizen and sociologist Eva Garrouette at Boston College provided detailed comments on my dissertation project in its early stages, and ever since has been very supportive of my work. Albert Wahrhaftig at Sonoma State University and his wife Jane Lukens-Wahrhaftig welcomed me into their home with good coffee, homemade bread, and great conversation. I met anthropologist Circe Sturm in the field during the 2008 Cherokee National Holiday, and she readily offered her insights and advice on my ongoing work. Circe's work (Sturm 2002) sets a high standard for ethnographic research in the Cherokee Nation, and I am grateful for her friendship and mentorship. At the University of Montana, I thank David Moore and Kathryn Shanley for their close friendship, mentorship, and stimulating conversations about Native studies generally.

My relatives in Oklahoma transformed my fieldwork into "homework," and enriched my research experience in ways that are difficult to express in words. This work is dedicated in part to the memory of my cousin Michael Allan Hunter, who passed over in 2006 at the early age of 42. Mike was a dear friend who enthusiastically supported my work, and, among many other selfless acts, gave me a couch to sleep on for an entire summer. His company and light-hearted, humorous disposition were deeply missed when I returned to Oklahoma in 2008 to begin my extended fieldwork. I thank his parents, Nancy and Lester Hunter of Muskogee, for their kindheartedness, and for all the dinners and conversations. Barbara McAlister, a distant cousin, but who I have come to know as "aunt" Barbara, has been a constant source of encouragement. Her brother John McAlister and his late wife Carolyn always made me feel at home.

My wife, Angelica, has been my closest colleague, mentor, editor, and friend throughout my graduate work, and I have been privileged to have her encouragement, advice, and love the whole time. Our daughter, Liliana, came into this world in 2010, and has given me inspiration and great happiness in life. I dedicate this work to her in recognition of her new life and a new generation. Finally, I want to thank my parents and step-parents for their love, support, and endless faith in my abilities. You've laid the foundation on which I stand, and I'm truly blessed for it.

Introduction

Nvwoti.¹ Medicine. As someone with a working knowledge of the Cherokee language, this is the word I clung to that mild October day, listening to two old Cherokee men speak about the plants growing on the hillside in front of us. They spoke to one another in fluent Cherokee, and I stood politely among them trying to pick up as much meaning as I could, based on my ongoing study of the language. Although I attempted to follow the conversation, I was quickly lost. Yet this word continued to surface, and eventually I was content in knowing only the basic idea of what was being said. After all, the topic of plant medicine was a large part of what we were gathered there to discuss. The mid-morning air was crisp in this secluded hollow nestled in the hill country and lush deciduous forests of northeastern Oklahoma. The leaves had only just begun to change colors, and there were still plenty of green ferns and other perennials on the forest floor.

Working as a researcher for the Cherokee Nation Natural Resources Department (NRD), I had called together a small group of elders and knowledge-keepers² to meet about the state of Cherokee ethnobotanical knowledge. The place we were gathered was the headquarters for a Cherokee community nonprofit organization. The two leaders of this organization had been cooking all morning in preparation for the meeting; and, for the sake of their hard work and all the food available, I hoped that the rest of the folks I had invited would actually show up. Aside from the non-committal nature of many of the invitees' responses to my invitation (a common Cherokee response when asked to attend something is, "I'll try to be there"), the topic of the meeting itself presented a potential disincentive. Throughout the course of my work on a tribal ethnobotany project, I had learned that when asking someone about their knowledge of wild plants, they will first assume you want to talk about medicine – a topic that most Cherokees will not discuss openly without first getting to know you (and your intentions).

I had been working on the project for three consecutive summers (first through the Cherokee Nation's Office of Environmental Programs, and later through the NRD) with the goal of developing an ethnobotanical database that would inform Cherokee Nation policy-makers about what plant species and habitats were of cultural significance and should be protected from tribal development. Despite the Cherokee Nation's sophisticated environmental programs that had been functioning under tribal control since the 1990s, this cultural element remained a gap to be filled, and I had hoped that the project could do just that. Yet, in my interviews with elders and knowledge-keepers, while everyone agreed that Cherokee plant knowledge was fading through lack of transmission and that the goals of the project were valuable, most were still reluctant to freely talk about their knowledge. Even though many had come to know me and did not doubt my good intentions, due to the history of mistreatment and exploitation of the knowledge, the topic of Cherokee medicine is heavily guarded. My association with the tribal government, as opposed to inquiring just out of personal curiosity, added a level of skepticism – there was always the possibility that the knowledge could be taken out of my hands and used in ways that were not intended by my informants.

The purpose of the gathering that day was to provide a forum for keepers of this knowledge to discuss this issue with NRD staff. We at NRD sensed that while some were very

¹ Pronounced "NUH-wot".

² I use this term to describe individuals who have not yet reached the age and status of "elder," but who possess a large amount of traditional knowledge due to their upbringing and continued use of, and interest in, the knowledge.

supportive of the project, they needed more than just their own opinion to move forward. I assembled the group based on the individuals I had been interviewing during my previous summer work since 2004, and my then seven months of continuous residency in Tahlequah (the tribal capital) for my dissertation fieldwork. In addition to me and two other NRD staff members,³ and the director of the community nonprofit, the group was comprised of roughly ten women and men mostly over the age of 50, the majority of whom were fluent Cherokee speakers. We (NRD staff) thought that if they all saw each other (rather than just me, an employee for the tribe and a university researcher), and were able to voice their concerns in such a forum, we might develop more confidence and trust in the NRD ethnobotany initiative. We chose the location of the meeting based on the existing relationship between the NRD and the nonprofit organization (the NRD had helped to establish the boundaries of the nonprofit's five-acre tract of land). Furthermore, the organization was founded on the goals of cultural revitalization and environmental stewardship; thus, as a place that could also accommodate the group and provide a relaxed atmosphere, it seemed a perfect choice.

So far, things were going smoothly. More people began to show up and gather around the fire that had been lit earlier that morning. There was plenty of coffee available (one could argue this is a staple of Cherokee meetings), and everyone was glad to see one another. Newcomers chimed in on the conversation in Cherokee, sometimes drifting into English out of politeness for the handful of non-speakers present (mostly NRD staff). They all knew the topic to be discussed, and were making small-talk on the subject already. Soon the meeting began. I gave each guest a small bundle of "old tobacco" (*Tsola agayvli*, or *Nicotiana rustica*) that had been grown by NRD staff that summer as an effort to revitalize traditional heirloom crops. Meanwhile, my supervisor (and the NRD Program Manager) opened by briefly stating the purpose of the meeting. He then asked what the group thought about the state of Cherokee plant knowledge, and how the NRD could best contribute to its perpetuation. Henry, one of the older gentlemen there, assumed a speaker role and started off the discussion. A well-respected leader among the communities and at the tribal complex, he perhaps felt compelled to speak first. He began by commenting on the style and setting of the meeting itself. Being outdoors, in a rural area, "out in the communities," around a fire, and seated in a circle were all really appropriate and important, and he said we were "on the right track." He also thought that officials from the tribal complex don't often come out to the communities to hear what people think, and that what we were doing was good.

As others joined in, the discussion gravitated toward the project and plant medicine. Yet, although the tone was positive, the discussion was still strained. There was much talk of "the elders" and how hearing what *they* thought was important before moving on with this project. The irony of this was that they *were* elders. This point was brought up before long, when one of the group members realized that he *was* the elder in his community; that many had passed recently, leaving his generation to take up the reins. This sparked several nods of recognition among the group.

Shortly after the discussion started, another car pulled up. Not recognizing it at first, I left the group to greet the new visitors. As they stepped out of the vehicle, I realized it was the

³ The NRD Program Manager and an NRD Technician – both of whom are Cherokee Nation citizens trained in Biology at Northeastern State University and have expansive "local" knowledge of the biota of northeastern Oklahoma, but who nevertheless were not reared in a "traditional" manner and do not consider themselves experts on Cherokee traditional knowledge. As a side note, the humor is not lost on NRD staff that the acronym for the department, when pronounced as a word, comes out as "nerd" – there is, in fact, a lighthearted sense of pride associated with this label.

elderly couple I had been visiting lately in order to discuss the project, in addition to lending a hand with various chores around their farmstead. They had gotten lost due to the hard-to-find entrance to the nonprofit's headquarters, and I had almost forgotten about them because I was unsure whether they would be able to come that day. The husband, Kenneth, is a highly respected Cherokee medicine man in his late 70s. His wife Helen, although a Native woman from another tribe, is a well-known advocate of Cherokee cultural revitalization.

The social atmosphere was transformed upon their arrival. Kenneth's attendance imparted a completely different level of endorsement and credibility to the initiative. Many in the group made amazed comments or gave each other expressive looks. Henry's tone changed instantly, as he was impressed and humbled by Kenneth's presence. Despite all his compliments earlier about the setting and style of the meeting, he exclaimed, "Man, I *really* like this meeting now!"

The social dynamics that made this meeting unique and significant constitute the subject of this dissertation. The more surface-level elements of the meeting inform the ethnobotany project that is inherently tied to my work. Kenneth had explicitly given his support to the group, not only as an elder, but as a respected practitioner of Cherokee medicine. Clearly, his backing had made a difference in the atmosphere of the meeting. According to one group member, the meeting "needed to happen" in order to continue with the NRD ethnobotany project. These meetings have continued to the present, and they have resulted in the widespread support and recognition of the NRD initiative to catalog Cherokee environmental knowledge for revitalization and preservation purposes.

Yet the political undercurrents of this scenario are equally significant. The broader issues that the meeting illuminated have to do with the relationship between tribal government and community – more specifically, the space between cultural forms and tribal bureaucracy. Henry's remark that many officials from the tribal government often do not venture out to speak with folks in the communities illustrates the perceived distance between the two groups, especially when one considers his status as both a governmental and community leader. Additionally, Henry's positive comments about the location and style of the meeting (which were apparently a novelty) point to the disparate decision-making processes between government- and community-based approaches. Furthermore, the calling of the meeting in itself, which was ultimately a necessary step in order to obtain trust and confidence in a tribally-funded project, indicates the need to address tensions between the stated goals of the tribal government to document traditional knowledge, and the concerns of the elders about the potential misuse of this knowledge.

Although the specifics vary among nations, the divide between government and community is a common scenario throughout Indian Country today. The Cherokee Nation, like many other American Indian nations, exhibits a paradox of contemporary tribal governance: As tribal leaders enhance governance structures in order to assert sovereignty and confront external political pressures, traditional communities find themselves increasingly alienated from the tribal governmental apparatus. That is to say, as tribal government is "improved" (e.g., by further developing tribal bureaucracy, amending tribal constitutions, etc.)⁴ in order to protect its people,

⁴ For example, in the case of the Cherokee Nation, these activities have included litigation with Oklahoma state officials and agencies over tribal water quality standards (requiring the know-how of tribal environmental managers and attorneys, and the bureaucratic efficiency of the Cherokee Nation Office of Environmental Programs), and the

territory, and resources, its gaze is gradually directed outward as it becomes preoccupied with the demands of a colonial game. However, while tribal governments must function on the scale of the settler-state, they are also required to represent the interests and values of the tribal community. Unfortunately, these two vital responsibilities are often at odds with each other, and they constitute the conflicting tendencies of contemporary indigenous state formation, which I discuss further below.

I do not wish to imply an *a priori* split between tribal governmental officials and members of Cherokee communities – these categories can often overlap, as Henry’s case in the above anecdote demonstrates. But even those tribal officials and employees who identify as “community people” still have barriers to cross when working from a system that often functions in ways that clash with life in Cherokee communities. In short, Cherokee communities do not see in the tribal government a system in which they can participate without compromising the core values and ways of operating that define them. Instead, the business-oriented approach and complex bureaucracy of the tribal government has led many to describe the Cherokee Nation (referring to its governmental body) as a corporation, rather than an entity for the people.

In *The Origins of Indigenism*, Ronald Niezen (2003: 140-44) describes the above situation as the “Weberian dilemma” of indigenous governance. In relation to indigenous engagement with Western institutions of bureaucracy and law, Niezen highlights Max Weber’s concerns over the consequences of modernity. Weber’s writings on bureaucracy emphasize its ability to “[eliminate] from official business all love, hatred, and all purely personal, irrational and emotional elements which escape calculation” (1946: 216). Thus, by eliminating the “personal sympathy and favor” of pre-existing systems of organization (based on tradition and charisma), bureaucracy dehumanizes official tasks and policies and expects workers and officials to disregard these elements of social life while engaged in work at the bureau (*ibid.*). Of particular significance to Weber is how these traits contribute to the efficiency of the bureaucratic apparatus. The “colliding interests and views” in more personal, less rational systems (he uses “honorific service” as this comparison) result in slower and less efficient performance, as compared to bureaucracy’s “[p]recision, speed, unambiguity, knowledge of the files, continuity, discretion, unity, strict subordination, reduction of friction and of material and personal costs” (214). Weber views these attributes as technically superior to any other form of organization. Ultimately, he regards bureaucracy as “a power instrument of the first order” – one that is hard to destroy because of its ability to become deeply engrained in the social structure (through specialization and public education) and because of the extent to which societies rely on its efficiency.

However, to Weber, the superiority of the bureaucratic form is not only something to admire “scientifically,” but something to distrust. Niezen states, “Although convinced by bureaucracy’s durability and growth, Weber saw it as at the same time leading to gray ubiquity, atomization, loneliness, and a thwarting of the human search for spiritual meaning” (2003: 142). It is in this manner that Niezen invokes Weber’s treatise on bureaucracy. Speaking with regard to the global indigenous movement and its engagement with international political forums, Niezen writes:

What do international bureaucracies, bastions of state interests and legatees of Enlightenment rationalism, have to offer people struggling, seemingly against the current of

creation of the position of Secretary of State in the 1999 constitution to maintain diplomatic relations with state and federal governments.

modernity, to maintain honor and family obligations, nature spirituality, subsistence economies, and the authority of elders in governance? What is the possible connection between individual rights and individualism, between legal recourse and political routinization, between bureaucratic development and bureaucratization? Do these social transformations begin with a consensual choice of values, or is there a strong element of inevitability and irrevocability to them? Does the formal protection of unique cultures, even through the mechanisms of collective rights, have the effect of formalizing processes of cultural transmission that are in essence informal? Does not the strategy of working within alien systems of written law in itself bring about some of the erosion of traditional values it is intended to protect? (2003: 140-141)

Indeed, Niezen raises some compelling points that resonate with the paradox I present above. But here I would like to depart from the trajectory of my narrative thus far to emphasize my foundational position throughout this work: While it is important to be cognizant of the paradoxes and dilemmas that indigenous nations face today, these predicaments should not be taken for granted.

With regard to Niezen's Weberian dilemma, it is worth pointing out (as Niezen is well aware) that his apprehension ultimately is based on an ideal type – a Weberian construct for the purpose of analysis. While Niezen's concerns are well-founded and important to be aware of, the reality is that many indigenous nations have developed ways to deal with this dilemma. This is most notably exemplified by mechanisms couched within tribal governments – entities that may have originated as colonial impositions, but nevertheless have been indigenized in various ways. Although Niezen acknowledges this in part: "...these forms of legitimacy [traditional and bureaucratic] can exist in combination, and...societies can change their form in accordance with the forces of history," in the end his assessment mourns the inevitable change of indigenous societies that results from their engagement with dominant forms (2003: 141). Even though it is hard to deny the ability of bureaucracy and Western systems of law to change non-Western societies, in certain contexts the change can be self-conscious and strategic.

Furthermore, Weber's discussion of bureaucracy, although it provides us with a thorough analysis of bureaucratic organization as an instrument of power and efficiency, does little for understanding bureaucratic formation and modification in colonial and neo-colonial situations (with reference to the "colonized"). Although we can use Weber's analysis to highlight the aspects of bureaucracy that are antithetical to non-Western perspectives, the discussion fails to account for how bureaucracy has been imposed on subjugated groups and how it could be modified to accommodate various cultural behaviors that do not possess "rational" motivations and that require the maintenance of relationships, both interpersonally and with the natural world.⁵ In other words, while it is true that Weber's characteristics of bureaucracy show why, for

⁵ Robert V. Presthus questions "the extent to which the Weberian model [of bureaucracy] rests upon certain normative assumptions about time, man, motivation, and society, which are not present in nonwestern societies" (1961: 2). In a study on Turkish bureaucratic organization, Presthus shows that in order for Western bureaucracy to function for societies where it lacks historical roots, "extensive modification must occur" (4). Contrary to the assumption that "the ethos, behavior, and technology of western bureaucratic organizations can be superimposed upon underdeveloped societies without the necessity of changing to some extent their traditional ideological and structural alignments," Presthus attests to the agency of traditional societies and asserts that the "underlying social values and class structure [of traditional societies] bend the organization in ways that document their own major assumptions" (ibid.). To Presthus, the fact that Western ideology and values have not supplanted those of Turkish society by the advent of bureaucracy indicates that "traditional ideology and institutions have provided subtle, deep-

example, there is resistance to incorporating traditional knowledge into tribal environmental programs, it is also useful to understand bureaucracy as a social institution with the possibilities for cultural and behavioral modifications, as well as its need to be in dynamic equilibrium with its social environment.⁶

The Cherokee Nation provides perhaps one of the best examples of this because of its long history of engagement with bureaucracy and Western law. The nation has operated with a centralized constitutional government since 1827, and its legal fight with the U.S. government to maintain territorial and political sovereignty in the early 19th century produced the “Marshall trilogy” – the well-known collection of court cases presided over by Chief Justice John Marshall that make up the foundation of federal Indian law today.⁷ This engagement with Western institutions of government and law – although it significantly changed Cherokee society – did not eliminate all traces of tradition. In fact, as Chippewa sociologist Duane Champagne asserts, the creation of a constitutional government actually reinforced tradition by building into the bicameral legislature a guaranteed system of representation and political power for the formerly autonomous 60-odd Cherokee towns that kept both political centralization and bureaucratization in check (1992: 143).

Since these times, Cherokee political history has been defined by moments of push-and-pull between bureaucratic and traditional authority (described by the above “paradox of tribal governance” and Niezen’s “Weberian dilemma”), but these moments have been mediated through a dialectical relationship between Cherokee government and communities. As I describe in detail in chapters 1 and 4, although the structure of the Cherokee Nation’s centralized form of government has changed significantly since its inception in the mid 19th century due to the repeated intervention of the U.S. federal government, there has been a consistent pattern of Cherokee resistance to total centralization and bureaucratization. This dialectical relationship is embodied in historical and contemporary Cherokee social movements. In moments when the tribal government has seemed to direct its priorities away from the cultural base and the majority of the nation, an equal and opposite force has been exerted by communities (or collective groups that represent community interests) in order to bring the government back to a more balanced position.

seated, and pervasive resistance to change” (ibid.). Implicit in his argument is the ability of traditional societies to bend bureaucracy to fit their own situation. Thus, according to Presthus, the attributes that Weber ascribes to bureaucracy are therefore not all inclusive. He presents “welfare bureaucracy” as an alternative to its Weberian ideal type – one that allows for the resilience of non-Western societies and one that does not take for granted the normative assumptions of “efficiency, objectivity, motivation, and authority” (5).

⁶ Israeli sociologist S.N. Eisenstadt (1959), although sympathetic to Weber’s model, emphasizes the need for bureaucracy to compete for resources and legitimacy in order to maintain its control and power in society. This perspective provides a nuanced way of questioning Weber’s classification of bureaucracy as “a power instrument of the first order.” Eisenstadt acknowledges that bureaucracy exerts a powerful influence upon the outside society through the legitimate power it possesses, but he also claims that the need for bureaucracy to maintain “a dynamic equilibrium” with its social environment classifies it not as an absolute power, but one subject to the changing demands of its clientele (308). Eisenstadt presents the concept of “debureaucratization” as a result of bureaucracy’s direct dependence on parts of its clientele. He writes, “[bureaucracy] will have to take an interest in numerous spheres of its clients activities and either establish its control over them or be subjected to their influence and direction” (318). Thus the institution itself is directed by its stated goals and managerial leadership, however, it is always in dialog with its outside social environment so as to maintain its legitimacy and power.

⁷ The Marshall trilogy cases are as follows: *Johnson v. M’Intosh*, 21 U.S. (8 Wheat) 543 (1823), *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831), *Worcester v. Georgia*, 31 U.S. 515, 8 L.Ed. 483 (1832).

Thus, for the Cherokee Nation, the paradox or Weberian dilemma that is evident in the relationship between tribal government and communities today is not new; rather it is a snapshot of a recurring phenomenon, in reaction to which Cherokee society has developed a social response mechanism. And while this response mechanism can and has been inhibited by federal policy and intervention (resulting in awkward fixtures in the contemporary Cherokee political landscape that it must reluctantly address, as I discuss in chapter 1), the dialectics of Cherokee governance is a system that has endured to the present.

The circumstances that led to the ethnobotany project and elders meeting presented above are indicative of this dialectical process, specifically with regard to the hesitancy of the elders toward divulging ethnobotanical knowledge for a project based in the tribal government. While the Cherokee Nation government has focused on the development of its Office of Environmental Programs and Natural Resources Department (the creation and maintenance of environmental bureaucracies seemingly pointing toward the opposite direction of “traditional” forms of environmental knowledge and stewardship), the cultural elements of Cherokee environmental values and attitudes have not been represented in these structures. This lack of representation has led to the desire by tribal officials to “incorporate” traditional knowledge into such programs (the ethnobotany project), which in turn has created a forum (the elders meeting) in which to raise larger issues of tribal environmental governance and policy (the processes by which decisions about the environment are made, and how things get done as a result). In this case, the process is by no means complete, but the scenario serves as a contemporary example of what it can entail.

“Re-imagining community” is an attempt to encapsulate this dialectical process in a phrase. I take inspiration from Benedict Anderson’s (1991: 6) well-known concept of the nation as an “imagined political community,” by which he discusses nation-building as the process of creating a unifying nationalist imaginary by way of the novel, newspaper, map, museum, and census. Yet, essential to my usage (and modification) of this phrase is that, upon closer inspection of Anderson’s work, it becomes clear that his discussion of nationalism is heavily concerned with describing the process of state formation. Anderson’s focus on “official nationalism” (83-111), which emerged in defense of an old dynasty or class, and to which capitalism, print technology, and languages-of-state helped give birth, and the post-World War II “colonial nationalism” (113-140) that cropped up throughout the period of Third World decolonization, describes the emergence of modern so-called nation-states as products of the incorporation of disparate peoples in to singular political and territorial entities. These nationalisms converged in their various respective ways with “popular nationalism” (that of pre-existing or potential nations) in order to imagine the “nation-ness [that] is virtually inseparable from political consciousness” today (135). However, while Anderson discusses the state’s role in this process (81, 101, 159, 163, 184), he takes for granted “nationalism” as the end product, where a more accurate depiction would be that of state-building.

Political scientist Walker Connor (1994) has provided valuable contributions to the study of nationalism by articulating clear distinctions between the concepts of “nation,” “state,” and “nation-state.” He writes:

The most fundamental error involved in scholarly approaches to nationalism has been a tendency to equate nationalism with a feeling of loyalty to the state rather than with loyalty to the nation... One of the most common manifestations of terminological license is the interutilization of the words state and nation. The state is the major political subdivision of

the world... Defining and conceptualizing the nation is much more difficult because the essence of a nation is intangible. (91-92)

To Connor, the intangible essence of a nation stands in stark contrast to the formal and juridical makeup of a state. Often the two are erroneously conflated under the term “nation,” where a state has subsumed multiple pre-existing nations. In this respect, he identifies the League of Nations and the United Nations as “obvious misnomers” – instead, both the historic League of Nations and contemporary United Nations consist of member *states* (97). Nations, in Connor’s sense, are enduring, self-defined human collectivities in which individuals share a sense of common origin or ancestry. Ancestral blood ties, or “an intuitive sense of consanguinity,” regardless of factual data that may “prove” otherwise, make up the foundations of the nations that Connor speaks of – those which often evoke the phrase “from time immemorial” (94). Thus, Connor stresses the self-defined nature of nations, stating, “what ultimately matters is not *what is*, but *what people believe is*” (93, emphasis in original).

The term “nation-state,” often used to describe a “country,” is also frequently misused. To Connor, a nation-state is a singular nation that has its own state. In such a case, “The state is perceived as the political extension of the nation, and appeals to one trigger the identical, positive psychological responses as appeals to the other” (96). Further, he writes:

Were all states nation-states, no great harm would result from referring to them as nations, and people who insisted that the distinction between *nation* and *state* be maintained could be dismissed as linguistic purists or semantic nitpickers. Where nation and state essentially coincide, their verbal interutilization is inconsequential because the two are indistinguishably merged in popular perception. (ibid.)

Similarly, “nationalism” and “patriotism” remain virtually indistinguishable with regard to nation-states; however, outside of this context, Connor emphasizes that the terms “refer to two quite distinct loyalties: the former to one’s national group; the latter to one’s state (country) and its institutions” (198).

Although Connor has his limitations (he frequently invokes Japan as one example of a “true” nation-state, not accounting for the indigenous Ainu population that exists on the margins of Japanese nationalism), his distinctions between these ambiguous terms helps to clarify my argument herein. For example, discussions of how indigenous or non-Western nationalisms differ from Western nationalisms have been hindered by the propensity to confuse nationalism or “nation-building” with what is actually state-building. Scholars have tended to contrast “non-Western” indigenous nationalisms that revolve around religion, kinship, and culture, with “Western” practices of demarcating fixed territorial boundaries and constructing myths of racial and cultural homogeneity (Alfred 1995: 6-16; Justice 2006: 21-27; Sturm 2002: 15-17), when in fact the so-called “Western” forms of nationalism they speak of are acts of state in the formative process of state-building.⁸ This is not to say that these scholars are not aware of the distinction

⁸ The three scholars whose work I cite here have all contributed greatly to the understanding of North American indigenous nationalism, two of whom (Justice and Sturm) have focused on nationalism in the context of the Cherokee Nation, and all of whom I am indebted to in my understanding of indigenous nationalism generally. However, I maintain that their arguments, in their comparisons of North American indigenous nationalism with “nation-state nationalism” (Justice 2006: 23), lose some of their critical edge when one considers Walker Connor’s essay on the “terminological chaos” in the study of nationalism. For example, following her theoretical discussion of race and nationalism, Sturm writes, “These theoretical formulations help explain how some indigenous expressions

between nation- and state-building in theory. Rather, my intention in trudging through this intellectual space is to redirect energy away from defining indigenous nationhood in relation to “Western” nationhood (read: coercive state-building) and instead focus on what makes indigenous nationalisms unique in relation to other “true” nationalisms in Connor’s (1994: 42) sense. Further, and perhaps more central to my objectives here, I intend to locate indigenous state formation apart from indigenous nationalism (while acknowledging their interrelatedness) in order to understand what makes *indigenous* state-building unique in relation to other forms of state-building.

To put it another way, I propose that indigenous nationalism should not be confused with the political apparatuses of indigenous nations, or, as we might view them through the above discussion, indigenous states. As such, I use the phrase “indigenous state” as an analytical tool throughout this work. Using Connor’s definition of a nation-state, I discuss indigenous states as the political extensions of indigenous nations. “Indigenous state” serves as an idiom in order to better understand how indigenous polities are using, in Niezen’s words, “the symbols of statehood” (2003: 159) to advance sovereignty and self-determination in their homelands, while not calling for the creation of separate, politically independent states. Following Bruyneel (2007) and Johnson (2008), the category of “indigenous” affords this third space of operation within settler-states, wherein indigenous polities simultaneously can express both difference and sameness. In this regard, I discuss indigenous state formation as a constructive process that some indigenous nations are undergoing in order to protect and conserve indigenous territories and natural resources, while also filtering the institutions required to achieve these goals through community- and culturally-centered concerns and values.

“Re-imagining community” thus describes the dialectical process of indigenous state formation – the indigenous development of state structures in a settler-colonial context. For the Cherokee Nation, this involves reconciling the need for political centralization with cultural tendencies toward decentralization; rural communities with tribal government; nation with state. “Imagining community” here implies a collective and formative (rather than fulfilled) process – a way to express how the Cherokee Nation is grappling with the demands of the state form and coming to terms with what it means to be a contemporary indigenous nation-state. In other words, it describes how the Cherokee Nation is dealing with the aforementioned paradox of tribal governance. The prefix “re” is necessary because, as I will discuss in chapter 1, Cherokee political history is marked with multiple attempts to articulate an indigenous nation-state, two of

of nationalism come to reproduce dominant forms. This phenomenon can be observed in the Cherokee Nation’s own state structure in Tahlequah, Oklahoma, which mimics the state structure of the federal government” (2002: 17). Here it should be evident that Sturm conflates the Cherokee Nation’s state structure and Cherokee nationalism – two very different things according to Connor and my own assessment herein. And while Alfred (1995: 11) cites Connor for his discussion of tribalism, Alfred relies on the contrast between “Western” and “non-Western” nationalisms to define indigenous nationalism: “Non-Western forms have various other bases for nationhood, such as religion, kinship, or culture, which contradict the Western framework based on territorial boundaries and the normalization of key Western values” (ibid.). This statement is weakened when one considers the multiple nations that Connor (1994: 196) lists within Western Europe that conflict with Western European states: Basque, Catalan, Flemish, Corsican, et cetera. Justice comes closer to Connor’s (and my own) assessment: “Nation-state nationalism is often dependent upon the erasure of kinship bonds in favor of a code of patriotism that places loyalty to the state above kinship obligations, and emphasizes the assimilative militant history of the nation (generally along a progressivist mythological arc) above the specific geographic, genealogical, and spiritual histories of peoples” (2006: 23). With a few terminological exceptions, we can see how this resonates with Connor’s description of nations and nationhood above. However, for my purposes here, it is important to maintain the distinctions between nation, state, and nation-state, in order to address the understudied area of indigenous “states.”

which ultimately were quashed by the U.S. federal government (through the policies of Removal and Allotment). And while “community” here accounts for Anderson’s use of the term – members of the at-large Cherokee Nation citizenry that are connected through an “image of their communion” (1991: 6) – I intend for it to evoke additional connotations that exist in an Oklahoma Cherokee context: Community as the rural (and plural) Cherokee communities throughout Adair, Cherokee, Sequoyah, Mayes, and Delaware counties, and community as the web of relations among individuals, families, plants, animals, and other non-human beings.

Such conceptions of community figure largely in descriptions of indigenous nationalism, and while I primarily focus on the process of indigenous state formation, I would be remiss not to include a discussion of nationalism in an indigenous context because of their interrelatedness. As I suggest above, indigenous state-building serves as a mechanism for the protection of indigenous nations. Similarly, Cherokee scholar Daniel Justice writes, “Indigenous nations vigorously protect their nationhood in defense of their treaties and government-to-government relationships, all of which work to preserve a sociopolitical boundary by which the sacred is protected” (2006: 8). Although Justice does not explicitly discuss indigenous political structures as states, the “sociopolitical boundary” he mentions in the context of “government-to-government relationships” clearly conveys this concept. “The sacred” that is guarded by this sociopolitical boundary refers to the spiritual elements of indigenous nationhood, which Justice claims set indigenous nations apart as unique collectivities. Quoting Justice:

Indigenous nationhood is more than simple political independence or the exercise of a distinctive cultural identity; it is also an understanding of a common social interdependence within the community, the tribal web of kinship rights and responsibilities that link the People, the land, and the cosmos together in an ongoing and dynamic system of mutually affecting relationships. At its best, it extends beyond the human to encompass other peoples, from the plants and animals to the sun, moon, thunder and other elemental forces. (24)

The relational “rights and responsibilities,” both inside and outside of human communities, form the basis of Justice’s conception of indigenous nationhood. Further, Justice writes, “Tribal nationhood is, in this way, distinguished from state-focused nationalism by its central focus on *peoplehood*, the relational system that keeps people in balance with one another, with other peoples and realities, and with the world” (ibid.). Although Justice compares tribal nationhood to “state-focused nationalism” (i.e., state-building), it is notable that he is describing elements of indigenous nationhood that define it apart from Connor’s broader conception of “true” nationhood.

The concept of “peoplehood,” formulated by the late Cherokee anthropologist Robert K. Thomas and later clarified by Tom Holm (Cherokee/Creek), J. Diane Pearson, and Ben Chavis (Lumbee) (2003), explains these unique elements. As intended by Thomas, the concept attempts to go “beyond the conventional notions of grouping human beings as members of classes, politics, cultural units, races, or religious groups” and to “transcend the notions of statehood, nationalism, gender, ethnicity, and sectarian membership” in order to articulate the foundation of indigenous group identity (Holm et al. 2003: 11). In their article, Holm and his coauthors describe peoplehood as a matrix of four interlocking factors: language, sacred history, ceremonial cycle, and place/territory. With regards to the interrelationship of the four aspects of the matrix, they write:

No single factor is more important than the others and all necessarily support each other as well as a particular group's larger sense of identity...the factors of peoplehood make up a complete system that accounts for particular social, cultural, political, economic, and ecological behaviors exhibited by groups of people indigenous to particular territories. (12)

Additionally, they emphasize the resiliency and flexibility of the peoplehood model: Because many indigenous languages were targeted by colonial assimilationist policies, "language" in the peoplehood matrix can stand for a specific dialect that creates a speaker community (they give Lumbee English as an example); ancestral homelands (identified as "place/territory" in the matrix) maintain their significance among relocated indigenous peoples, and new lands are often imbued with significance when filtered through the other aspects of the peoplehood matrix; and new religions (encompassing both "sacred history" and "ceremonial cycle") have in many cases been syncretized in ways that link ancestral traditions with new forms of worship (as in the case of syncretic Cherokee Christianity). In short, the authors intend for the peoplehood matrix to function as a dynamic model that can help to explain the persistent and unique human groupings exemplified by many indigenous peoples. They arrive at the conclusion that peoplehood is the foundation of indigenous nationalism and sovereignty: "[Peoplehood] predates and is a prerequisite for all other forms of sociopolitical organization. ... Sovereignty, therefore, is inherent in being a distinct people" (17). As Holm later writes with regard to U.S. Indian policy in the Progressive Era, "Peoplehood was ultimately the reason underlying Native cultural resiliency. Indians managed, despite every effort on the part of the federal government, to maintain their identities as sovereign sociopolitical entities" (2005: xv).

Both Justice's and Holm, Pearson, and Chavis' assessments are useful for my analysis of indigenous state formation. Indigenous nationhood and peoplehood as expressed above demonstrate the conceptual depth of the term "community" in indigenous contexts. They also illuminate how a dialectic between government and community (or equally expressed as state and nation) involves not only attention to governmental structures and processes, but also dialogs over land/environment, spirituality, language, and traditional teachings. As Holm and his coauthors state, "Native American peoples have taken foreign ideas, institutions, and material goods, filtered them through the matrix of peoplehood, and given them meaning within their own cultures and societies" (18). In this light, we might view the dialectics of Cherokee governance as the act of filtering state structures through the matrix of peoplehood.

By accounting for both nationhood and statehood in the analysis of current tribal political issues, new approaches to understanding problems in tribal governance are brought to light. In much of the literature on American Indian governance and development, "nation-building"⁹ and "state-building" are conflated under the former term, which often dangerously frames the goals of nation-building in terms of economic governance. This leads to proposed solutions that prioritize outside economic interests (through the development of indigenous lands and resources) over meaningful political reform.¹⁰ Economic governance may have relevance in the context of tribal

⁹ Connor has described the received definition of "nation-building" as "nation-destroying" (1994: 28-66).

¹⁰ As Connor (1994: 98) writes with reference to Third World development projects, "Contrary to its nomenclature, the 'nation-building' school has in fact been dedicated to building viable states." The Harvard Project on American Indian Economic Development – a correlate of the "nation-building" school but devoted to issues in Indian Country – makes the same assumptions. As a result, the scholarship and applied projects related to the Harvard Project have

fiscal management, but, as scholar Patrick Sullivan states, it should not be confused with “the distribution of authority throughout a community” (2006: 27). Differentiating state-building from nation-building not only evades the confusion of the development of political structures with the continuance of a people, it also highlights the key role of state-building in the maintenance of indigenous nationhood, and the necessary dialog between the two. Examining this dialog, or dialectic, is one such new approach to understanding problems in tribal governance that I explore in depth in chapter 4.

Furthermore, viewing these issues through a political-ecological lens (focusing on environmental politics and governance) illuminates many of the pressing issues indigenous nations face today: land and territorial sovereignty, natural resource conservation and access, the formulation and wider recognition of tribal environmental policy, the protection and perpetuation of traditional ecological knowledge, and so on. As tribal governments and communities are confronted with these issues, there is even more need for the maintenance of strong political structures and for channels of communication between those structures and indigenous communities in order to deal with external relations while staying grounded in the beliefs, values, and traditions that set indigenous nations apart from the mainstream. Such unique political configurations are promising vehicles for the advancement of indigenous self-determination and sovereignty, and for influencing global politics generally.

In championing indigenous interpretations of the state form, I do not wish to ignore the destructive manifestations of state power across the globe. Without a doubt, indigenous people have undergone countless travesties in the name of state-building. Yet, while acknowledging the devastating effect that colonial practices had (and continue to have) on indigenous peoples and their cultures, it is equally important to highlight indigenous agency and acts of resistance, and their resulting counter-effects on the identities and experiences of the colonizers.¹¹ Colonialism and state-building are imperfect projects with many holes and inconsistencies. In this light, colonialism becomes not something that merely *happened to* indigenous peoples, but rather something that was *experienced by* both the colonized and the colonizers in uncertain and complex ways (Thomas 1994).

In highlighting this, I hope to contribute to a very limited discussion in academic circles regarding the actual workings and unique attributes of indigenous political structures, as well as their ongoing formation. Too often, both in academia and in tribal communities, tribal governments are dismissed on the basis that they do not adhere to “traditional” forms of indigenous governance. One of the most outspoken critics in this regard is Kanien’kehaka (Mohawk) scholar Taiaiake Alfred, whose work on the topics of indigenous governance and nationalism has been very influential. In his books *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism* (1995), *Peace, Power, Righteousness: An Indigenous Manifesto* (1999), and *Wasáse: Indigenous Pathways of Action and Freedom* (2005), he seeks to rediscover elements of indigenous systems of governance in order to center the discussion on how indigenous traditions can guide political development in indigenous communities. Such work adds a valuable contribution to the field by critiquing the intellectual framework that has tended to structure not only relations between indigenous nations

produced a limited understanding of problems in tribal governance and development (for related scholarship of the Harvard Project, see Cornell and Kalt 1992, 1998, and Jorgensen 2007; for a critical assessment of this work, see Sullivan 2006).

¹¹ Womack (1999: 12) provides a thought-provoking list of indigenous contributions to European society during and after colonization.

and settler-states, but the internal politics of indigenous communities as well. Yet, whereas his work is inspiring, and whereas I believe we share the same goal of generating positive change in indigenous political life, my work diverges from his in many ways.

Although Alfred's earlier work emphasized "syncretic reformation" and "institutional framework[s] strongly rooted in tradition but adapted to modern political reality" (Alfred 1995: 179), his later publications (1999; 2005) take a more radical approach to understanding the indigenous use of state structures. The following passage articulates Alfred's more recent perspective on contemporary tribal governance:

Traditional indigenous nationhood stands in sharp contrast to the dominant understanding of 'the state': there is no absolute authority, no coercive enforcement of decisions, no hierarchy, and no separate ruling entity. In accepting the idea that progress is attainable within the framework of the state, therefore, indigenous people are moving towards acceptance of forms of government that more closely resemble the state than traditional systems. Is it possible to accomplish good in a system designed to promote harm? Yes, on the margins. But eventually the grinding engine of discord and deprivation will obliterate the marginal good. The real good should be to stop that engine. (1999: 56)

I offer an alternative to this narrative, presenting a case of an indigenous nation articulating a state government in ways that defy "statist" tendencies. Far from a utopian tale, I highlight the past and present problems of this structure; but, more importantly, I call attention to what indigenous people are doing to address these problems. I argue that, in focusing on the vast differences between indigenous nationhood and states, scholars have overlooked the accomplishments being made through the formation of indigenous states. Such accomplishments comprise the syncretic, transcultured border areas where indigenous people are engaging with difficult situations (e.g. how to incorporate "culture" into their governance structures), and in the process are creating something new. Indigenous states offer the possibility of undermining state hegemony while speaking its language; making use of state structures like bureaucracy, constitutional governments, and environmental policy, while nurturing community, cultural protocol, and traditional knowledge.

My hope is to create a space for thinking about how tribal government and community governance can and need to intersect in order to create functional and healthy indigenous political environments. This is not naively calling for an end to tribal politics, but for such politics to be based on community and citizen engagement rather than a complete dismissal of the tribal political apparatus. And while I am aware of the slippery ground that is created by applying tribally-specific findings outside of their original contexts, I hope the approaches that I promote, when translated appropriately to other specific situations within other indigenous nations, will encourage fresh perspectives on tribal political issues.

In the sections that follow, I provide a theoretically-focused discussion on indigenous states that expands on the above political-scientific definitions of states in order to account for the many other manifestations of "the state" as construed by social theorists. In this sense, I use what could be called "state theory" to analyze indigenous states and their formation from multiple angles. In addition to being political apparatuses, states are ideological projects, and this is another area in which indigenous states have transformative power, and, conversely, where indigenous nations must be cautious in their employment of state structures and ideologies for the purposes of social control. Within this analysis, I discuss the geopolitics of indigenous

sovereignty in order to situate indigenous states within global and local political landscapes. I then engage theories of articulation theory and transculturation in relation to indigenous state formation in order to illustrate the conceptual framework behind indigenous appropriations of the state form. Lastly, I bring in a discussion of political ecology to situate indigenous state formation within the realm of global environmental politics.

States in Theory and Practice

As described above, a “state,” in the geopolitical sense, can be defined as “a centralized political system within international legal boundaries recognized by other states” (Nietschmann 1994: 227). Much like Walker Connor, Bernard Nietschmann identifies modern states as “legal creations” that establish borders and attempt to homogenize the peoples found within them (ibid.). States make claims on all land and resources within such borders; and, through the maintenance of a distinct military and other forms of coercive authority, they claim “the monopoly of the legitimate use of physical force within a given territory” (Weber 1946: 78). As such, statehood is often synonymous with sovereignty. As a territorially-bounded, centralized source of absolute authority, “the state” has become a definitive expression of sovereignty.

Focusing on state “schemes,” political scientist James Scott (1998) argues that “seeing like a state” requires understanding the state’s tendencies to simplify, make legible, and manipulate. Through an analysis of monoculture forestry, Scott details early European state simplification and manipulation of forests to conform to agendas of maximized economic gain (11-22). He traces how the term “natural resources” originated as a product of these policies to describe the state’s commodification and systematic exploitation of forest products. Furthermore, Scott compares the state’s domination over nature to its control of local populations by chronicling the state’s manufacture of national citizenship (simplifying people through uniformity) and the origin of the cadastral map (making land tenure customs legible). To Scott, these are the measures that state officials take in order to create “a uniform, homogenous, national administrative code” (35).

Although many take for granted the idea of a state as a territorially-bounded centralized political system, Phillip Corrigan and Derek Sayer (1985) focus on the ideological nature of states that runs counter to the view of “the state” as a monolithic entity. They observe that:

...institutions of government are real enough. But “the” state is in large part an ideological construction, a fiction: the state is at most a message of domination – an ideological artifact attributing unity, structure, and independence to the disunited, structureless and dependent workings of the practice of government. (7)

Corrigan and Sayer advocate the study of “state *formation* as cultural *revolution*” (199, emphasis in original). In other words, it is through the institutionalization of what they call “moral regulation” – previously considered the domain of the autonomous individual – that the state form of organization arises (4). Corrigan and Sayer’s focus on moral qualities and values as instruments for social control shows how the state works *within* and *through* its subjects (199). Thus, in order to “see” the state, we must look at its manifestations in specific projects (or practices). In other words, we must look at how subjects are made, and how things get done. “Key questions,” Corrigan later states, “then become NOT *who* rules, but *how* rule is accomplished” (Corrigan 1990: 264, emphasis in original).

In a similar vein, Michel Foucault's notion of *governmentality* emphasizes "the manufacture of subjects," and presses us to view state formation as a contingent process of forming "various types of agents with particular capacities and possibilities for action" (Dean 1999: 29). Further, studies on governmentality have shown how economic neoliberalism and other forces of globalization have contributed to the fading out of the state as a concrete form, and how power increasingly works through more indirect methods (Dean 1999; Rose 1996; 1999). Indeed, sovereignty in an absolute sense over borders, culture, and economy is not possible today for even the most powerful nation (Clifford 2003: 84). Nevertheless, such insights do not lead to the "end of states," but rather new understandings of state forms and how they work.

These new understandings, as Hansen and Stepputat (2001) claim, are advanced by looking at localized instances that emphasize historical specificity. They write:

Instead of talking about the state as an entity that always/already consists of certain features, functions, and forms of governance, let us approach each actual state as a historically specific configuration of a range of languages of stateness, some practical, others symbolic and performative, that have been disseminated, translated, interpreted, and combined in widely differing ways and sequences across the globe. (7)

Such an "ethnography" of the state views it neither as a monolith nor as a particular closed group of individuals, but as an ideological configuration, albeit with material presence and effects. Their ethnography is an inquiry into how each unique formation is produced and reproduced, imagined and re-imagined by and through its subjects. This claim illuminates that *not all states are the same*, and further, that not all state projects are necessarily "bad." They elaborate: "Whereas certain forms of state intervention may be loathed and resisted, other and more egalitarian forms of governance, or more benign forms of authority, may at the same time be intensely desired and asked for" (9). Thus, while we can recognize that some forms of state power have disastrous potential (as in Scott 1998), we can also allow for variation between states and differing degrees of coercion among state projects – there are many paths to "stateness" (see Li 2005). Viewing states and state formation as such offers some conceptual space within which to discuss indigenous state formation as a creative process through which unique expressions of "stateness" can be articulated. I describe below how such expressions are articulated with regard to both form and geographic scale.

Contextualizing Indigenous States

"I can view my native country, rising from the ashes of her degradation, wearing her purified and beautiful garments, and taking her seat with the nations of the earth."

Elias Boudinot (Cherokee), Address to the Whites, 1826

Drawing on Benedict Anderson, anthropologist Thomas Biolsi notes how the "common sense of political modernity" presents a scenario in which "[e]ach nation, with its own culture, its own language, its own history and place on the map is entitled to its own state with clear and secure borders and general autonomy within those borders and to a seat at the table of the

community of nations” (Biolsi 2005: 241). In relation to Indian country in the United States, Biolsi further highlights that many American Indian nations indeed have seemed to borrow this modular form of nationalism (i.e., state-building). One can see this reflected as early as 1826 in the above epigraph penned by Elias Boudinot, an elite Cherokee nationalist and the first editor of the *Cherokee Phoenix* (the first indigenous North American newspaper, established in 1828). And while Biolsi rightly notes that many American Indian leaders and intellectuals would view this more as an expression of indigenous political continuity, he, along with Mohawk scholar Audra Simpson (2000: 121), questions the assumption that nationhood must always lead to statehood. Biolsi demonstrates that, for American Indians in the United States, there are many different geographies in which to express political subjectivity – the nation-state is only one possibility (2005: 254). This is a valuable argument in light of his discussions on pan-Indian solidarity (“national indigenous space”), and the ability of American Indian people through their dual citizenship status (as U.S. citizens and citizens of their respective nations) to invoke protections under U.S. civil rights laws (“hybrid political space”). Nevertheless, Biolsi acknowledges that the nation-state model tends to dominate American Indian nations’ conception of tribal sovereignty, however “graduated” (i.e., limited) that sovereignty may be (ibid: 245).

Central to understanding the geopolitical context of indigenous “stateness” is the fact that indigenous nations must operate within established systems of governmentality maintained by postcolonial or settler-states. In other words, in discussing indigenous states one must account for *two degrees* of state dynamics – they are states within states. In the U.S. and other settler-states (Canada, New Zealand, Australia), indigenous nations are treated as “wards” of the state, or, in the language of U.S. federal Indian law, “domestic dependent nations.”¹² Because indigenous nations “jeopardize state territorial claims” (Nietschmann 1994: 230), most states rely on this rhetoric to define their relationship to them. In international contexts, the definitional treatment of indigenous peoples, although somewhat more progressive, echoes that of settler-states. For example, in early deliberations on the U.N. Declaration on the Rights of Indigenous Peoples, the matter of whether or not to acknowledge the *collective* group rights of indigenous “peoples” (emphasizing multiple distinct and autonomous entities) versus the *individual* rights of indigenous “people” (lumping all indigenous persons together to form a subset of “minorities” within the global state system) was strongly debated (Barsh 1994: 49-52), as was whether or not the definition of “self-determination” implied the “internal” or “external” exercise of the term (ibid: 35-42).

At the heart of the issue is the social construction of geographic scale. As Steven Silvern writes, the construction of geographic scale “operates as a framework, a set of normative assumptions about what constitutes the proper, preferred, ‘natural’, and legitimate organization of political space and allocation of power between nested, hierarchically arranged geographical scales” (i.e., local, national, global, etc.) (Silvern 1999: 645).¹³ Thus, the debates over the definitions of “self-determination” and “people/s” are in essence debates over the organization of geographic scale, and the rhetorical manipulation of such definitions by settler/imperial states are attempts to reinforce the established scale. But whereas in these debates U.N. member states feared that the recognition of indigenous nations/peoples as autonomous political entities would lead to indigenous secession and thus threaten their territorial integrity, throughout the U.N.

¹² *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831) at 27. The case significantly centers on the Cherokee Nation, which I will address in the next chapter.

¹³ See also Smith (1992) and Swyngedouw (1997).

Declaration negotiations, it was repeatedly made clear that most indigenous nations have no intentions to secede from the states in which they now reside (Tullberg 1995). Although mainstream political theory would view this situation as an irresolvable conflict between “sovereigns,” it is actually consistent with many indigenous views. Roger Maaka and Augie Fleras note that, “Indigenous sovereignty rarely invokes a call for independence or non-interference” (2000: 93). Indigenous claims of “sovereignty without secession” (ibid: 92), and “measured separatism” (Ranco and Suagee 2007; Wilkinson 1987) indicate a nuanced understanding of their historical relations with settler-states, and a firm conception of their contemporary political identity. The extent to which indigenous nations can successfully assert this unique view of sovereignty in part relies on their ability to fit this claim into the ideology of the settler polity.

In an impressive work on postcolonial politics in the United States, Kevin Bruyneel (2007) suggests thinking in terms of a “third space of sovereignty” to visualize such claims. He describes how spatial and temporal boundaries created by American political discourse present American Indian nations with false choices constructed by imperial binaries – “assimilation or secession, inside or outside, modern or traditional” (217). Spatial boundaries demand that American Indians occupy a definitive political space: either sovereign (separate, self-sufficient), or citizen (dependent, with no “special rights”). Temporal boundaries prohibit American Indian sovereignty from being expressed in modern forms, and from “[engaging] in practices commensurate with present-day American political life” (xiv). Employing postcolonial theories, Bruyneel outlines how the refusal by American Indian nations to choose between these dualisms is an assertion of a political “third space” (Bhabha 1994; see also Johnson 2008). Thus, a third space of sovereignty allows for other promising contradictions in indigenous relations with settler-states: asserting difference and autonomy without implying secession, and holding the settler-state to its responsibilities toward indigenous nations without accepting its paternalism.

Here I return briefly to Taiaiake Alfred (1999) in order to present a valuable alternative viewpoint on indigenous political aspirations. Alfred’s work brings into question the philosophical foundations of the term “sovereignty.” While many (scholars and American Indian nations) rely on sovereignty as a concept in order to frame discussions of American Indian political status, goals, and struggles, Alfred argues that indigenous nations should abandon sovereignty as a goal because of its philosophical roots in European notions of absolute rule, coercion, and domination. These notions run counter to his conception of indigenous political traditions: communal responsibility, individual freedom, and respect for nature. Alfred writes,

Sovereignty is an exclusionary concept rooted in an adversarial and coercive Western notion of power. Indigenous peoples can never match the awesome coercive force of the state; so long as sovereignty remains the goals of indigenous politics, therefore, Native communities will occupy a dependent and reactionary position relative to the state. (59)

Alfred provides a similar critique of contemporary tribal governance institutions. He writes, “[T]he imposition of Western governance structures and the denial of indigenous ones continue to have profoundly harmful effects on indigenous people” (2). He questions the ability of imposed political structures to achieve any significant steps toward indigenous self-determination on the grounds that they are foreign, destabilizing, and dysfunctional (28). Alfred’s main point of contention is the reproduction of ‘statist’ structures and ideologies in the development of political autonomy for Native nations. He argues that by accepting sovereignty and state formation as goals for tribal development, Native leaders are legitimating a dominant

colonial framework and the subordinating political relations that it demands. This, Alfred claims, is a mistake, and it only further solidifies the ‘hegemonic myth’ of the state and thus further clouds the significance of historical realities. In Alfred’s opinion, it is best to undermine this hegemonic myth than to try to carve out spaces for the tribal polity within it. He states, “The problem is that the assertion of a sovereign right for indigenous peoples continues to structure the politics of decolonization, and the state uses the theoretical inconsistencies in that position to its own advantage” (57).

While I value Alfred’s critical perspective, it is clear that my analysis diverges significantly from his. For one, his intellectual battle is constructed around monoliths: the state versus indigenous peoples. In the previous section, I discuss how such a construction obscures the ways in which state power works through ideology and the creation of subjects, rather than coherent policies and plans (Corrigan and Sayer 1985; Li 2005). As scholar Nicolas Thomas (1994: 3) has argued, characterizing dominant discourses (i.e., colonialism, the state) in “unitary and essentialist terms” masks their internal contradictions and in turn *reproduces* their power and status. Thomas writes, “Colonial discourse has, too frequently, been evoked as a global and transhistorical logic of denigration, that has remained impervious to active marking or reformulation by the ‘Other’; it has figured above all as a coherent imposition, rather than a practically mediated relation” (ibid.). Resistances and alterations of colonial/state projects by the societies they encounter are thus overshadowed.

Further, as Alfred’s essay on sovereignty is part of a larger indigenous manifesto, his argument necessarily requires a certain amount of generalization and idealization of indigenous qualities and values. Of course, it is clear that Alfred employs a strategic essentialism – he states that certain broad assumptions about indigenous peoples must be made in order “to prepare the philosophical ground” (1999: xxiv). Yet, some have interpreted this exercise to be politically dangerous. As Barker (2005) and Moreton-Robinson (2007) have shown with regard to the use of the term “sovereignty” in localized indigenous struggles, theorizing on the abstracted grounds of the *Indigenous*, and then lending these theories to local struggles often overlooks crucial differences in the historical experiences and current political positioning of many indigenous nations. While I agree with Alfred that hegemonic constructions of power need to be interrogated, it is important to consider how each indigenous nation has experienced, reacted to, and impacted such constructions, and in turn, how indigenous people have appropriated these constructions in order to counteract ongoing injustices (see, e.g., Ranco 2007).¹⁴

Lastly, Alfred bypasses the new indigenous political formations that have resulted from the transformation of imposed structures. While he acknowledges the dynamic nature of traditions and culture (1999: xviii), he does not extend this perspective to conceptualize the same process for indigenous political structures. Conversely, I suggest that as much as the term

¹⁴ In my view, Alfred’s observations are most relevant when kept in a local (Kahnawake Mohawk) context. His earlier work (see Alfred 1995) centers on Mohawk governance institutions and shows their transformation through a concrete and detailed study. Such a focus on tribal specificity and localized struggles highlights issues as they arise in particular contexts. These contexts can then be compared across indigenous nations. His later work gives less attention to tribal specificity, and often emphasizes the polarization of Indigenous versus Western values and political forms. Both *Peace, Power, Righteousness* (1999) and *Wasáse* (2005) appear to struggle with whether to cast off all imposed structures or to renounce tradition altogether. He thus ends up with a zero-sum game of modernity for tradition, Indigenous for Western (see, e.g., 1999: 20-30) – a predicament that I think can be circumvented when indigenous governance institutions are viewed as articulations (see my further discussion of this below).

“sovereignty” can be articulated to represent indigenous needs and political values (see Barker 2005), so can indigenous political institutions.

The question, then, is not: *should* indigenous states be forming; but rather: *how are they forming?* In illuminating the ideological character of “stateness,” we might ask: how have indigenous nations been able to envision this form for themselves? What attributes of this form are being addressed to account for various indigenous situations and values? What are the social and political obstacles to this process, both “externally” (in relations with settler-states) and “internally” (regarding intra-tribal dynamics)? How might they occupy a third space in both national and global politics, and, in doing so, “gain the fullest possible expression of political identity, agency, and autonomy” (Bruyneel 2007: 6)?

Yet still some scholars have questioned the limits of this “fullest possible expression,” warning that indigenous sovereignty should not lay beyond the reach of international human rights laws (Brown 2007; Kymlicka 1996; Young 2000). Their critique once again interrogates the boundaries of state sovereignty, cautioning against the exploitation of internal minorities, and the “license to advance one people’s goals at the expense of another” (Brown 2007: 187). However, their solutions fall short of a critical understanding of indigenous political history. While the global community benefits from holding states accountable for human rights violations, we always need to be aware of the unequal relations of power that have defined indigenous history and that continue to structure indigenous relations with dominant societies. Until indigenous nations (and/or states) are recognized within the United Nations *as nations* (and/or states), we cannot continue to rely on imperial oversight to determine what is best for indigenous people and their communities.

Because indigenous nations have often been the victims of invader states, indigenous state formation is necessarily under different circumstances. Indigenous state-building does not require repressing or subsuming any other nation, but rather articulating this form in ways that resonate with both their own citizenry and the postcolonial or settler-state. The concept of an “indigenous state” does not concern repeating the violence or mimicking the unethical behavior of “high-modern” states (Scott 1998: 4-5); rather, like other indigenous versions of non-indigenous forms (i.e. indigenous mapping), it concerns the ability to display “commensurability with hegemonic configurations of power” (Bryan 2009: 27). Indigenous nations can use “state structures” – the bureaucratized and rationalized institutions of social control and regulation that result from the need to represent, govern, and provide services to a large population through a centralized government – without needing to replicate all of their philosophical and ideological assumptions.

Although it would be naïve to assume that indigenous nations are immune to any negative byproduct of the state form (e.g., oligarchy), I hope to show through the Cherokee Nation case one example of how an indigenous nation reconciles the conflicting tendencies of state formation by balancing the constant tension between tribal government and the tribal community. Although there is never a perfect balance, the concept (or even the *ideal*) of maintaining equilibrium between the two entities is essential to a functioning Cherokee state. Of course, this dynamic may be different for other indigenous nations (and again, the discussion of indigenous statehood may not apply to some indigenous peoples *at all*), but instead of discrediting tribal governments that employ state structures, attention should be paid to similar social dynamics that may exist to maintain such an equilibrium (and thus inhibit negative consequences of state formation, like oligarchy).

Modernity, Transculturation, and Articulation

To assume that indigenous states will become exact replicas of high-modern states presupposes that all societies are on the same linear trajectory to a uniform modernity (often defined by Western European standards). Yet, there are alternative modernities at stake – modernities that are not necessarily synonymous with capitalist development. Indigenous people are creating their own versions of modernity, skirting the zero-sum game that has so often characterized non-Indigenous notions of Indigenous cultural change (Clifford 2001; 2003). The narratives of settler contact histories present such change as a trade-off: tradition for progress; Indigenous for Western. Marshall Sahlins illuminates this inclination and its fallacies:

[A]rguments of dependency and capitalist hegemony [present] dim views of the historical capacities of indigenous peoples and the vitalities of their cultures. In too many narratives of Western domination, the indigenous victims appear as neo-historyless peoples: their own agency disappears, more or less with their culture, the moment Europeans irrupt on the scene... [D]ependency is real but it is not the internal organization of [indigenous] existence... [T]heir experience of capitalism is mediated by the *habitus* of an indigenous form of life. (Sahlins 1999: ii, xvii, xvi)

Similarly, Colleen O’Neill states, American Indians have “transcended these rigid categories [traditional / modern] and created alternative pathways of economic and cultural change that [are] not merely static renditions of some timeless past or total acceptance of U.S. capitalist culture” (2004: 3). Sahlins calls this “the indigenization of modernity” (1993: 21).

Thus, I view indigenous state-building as a way to participate in settler-state politics while retaining the ability to contest the terms of the debate. One might read this assertion as using a counter-hegemonic strategy in order to present non-hegemonic resistances to the ongoing forces of colonialism. This view offers an outlet to a key dilemma of indigenous governance studies: that of whether to “cast off” all imposed structures, or to renounce traditional governance altogether. In the current light, the two choices are irrelevant: indigenous nations can employ the “imposed” structures while revitalizing traditional ones – to the extent that they can modify both. This is bolstered by Sahlins’ observations:

Rather than the overthrow of the World System, which is now an irreversible fact of their existence, [indigenous] inventions and inversions of tradition can be understood as attempts to create a differentiated cultural space within it. ... Defenders of the indigenous order are prepared to make useful compromises with the dominant culture, even to deploy its techniques and ideals – in the course of distinguishing their own. (1993: 19-20)

The Indigenous / Western dichotomy itself is problematic in its tendency to obscure the complexity and nuances of cultural difference. Concerning the Indigenous / Western knowledge divide, Arun Agrawal (1995) shows the multiplicities of knowledges that make up each category, and argues that when constructed as monoliths and defined only in relation to one another, it becomes impossible to attach hard definitions to either. He writes, “It makes more sense...to talk about multiple domains and types of knowledges, with differing logics and epistemologies” (433). Further, within the rubric of dichotomies, it is hard to proceed without idealizing or

romanticizing either category. Nader and Ou (1998) demonstrate the real power of these idealizations as manifested in workshops and conferences for American Indian leaders. In the context of one such conference on nuclear waste storage in Indian Country, they write, “Idealized Indian traditions were contrasted with idealizations of Western reason. The synthesis of the dichotomy was considered necessary for Indian survival in the modern world” (38). Thus, the creation of the false dichotomy between Indian and Western opens up a discursive space wherein “experts” can make the argument for creating a synthesis *sui generis*. This maneuver elides the fact that Indian people have been “synthesizing” in this way all along, and that they have been doing so *on their own terms*.

The term “transculturation” has attempted to describe this process. First coined by Cuban anthropologist Fernando Ortiz ([1940] 1995), transculturation was intended to more accurately describe accounts of cultural change in instances of cultural contact than its predecessor, acculturation. As Walter Mignolo states, “While *acculturation* pointed toward cultural changes in only one direction, the *transculturation* corrective was meant to call attention to the complex and multidirectional processes in cultural transformation” (2000: 167). In this sense, the *trans-* prefix implies a dialectical process, highlighting the agency of subordinated societies and their ability not only to *choose* which aspects of the dominant culture to absorb into their own, but also their *influence upon* the dominant society. Although colonialism made this process violent and uneven for indigenous peoples, it is important to note that the changes that occurred in many cases have become inextricable parts of indigenous cultures and/or practices. That said, I should stress that I do not think transculturation is an all-encompassing phenomenon, nor is it a passive “cure” for dire cases of cultural and linguistic attrition. Not all areas of indigenous cultures bear the imprint of European-based ideas or practices, and taking our hands off the wheel to let culture and language stray into a “post-modern” state is not the answer. Rather, transculturation involves looking at indigenous peoples’ interactions with dominant structures and the productive processes that result from this.

Accounting for the process of transculturation with regards to indigenous governance shows that, on closer inspection, separating what is Indigenous and what is Western in contemporary Native governance structures is difficult at best and impossible at worst. Owing to transculturation, often what seems to be a product of colonialism has been turned around and used in a syncretic fashion to improve the tribal situation or to otherwise gain political capital. One could see this exemplified in many American Indian tribal courts, in which both U.S. and tribally-based systems of justice are employed (cf. Merry 1988 on legal pluralism). Therefore, casting away the progress that tribal governments have made in the mainstream political arena through their respective state structures would deny important formative histories of colonial interaction and transculturation, and would be more of a setback than a step forward. Thus, the strength of indigenous states is in their success at “playing the game” of mainstream politics while contesting dominant structures through internal acts of transformation. Indigenous states represent new forms that are recognizable to colonial governments, but are able to articulate non-hegemonic agendas.

Not that these concepts – tradition, modernity, Indigenous, Western, etc. – aren’t “real,” or otherwise don’t have an actual effect on the world: they are, and they do. What I have hoped to illuminate in this discussion is that defining them in relation to one another – as polar opposites – hides a more complex reality. However, some critics have deconstructed them to argue that, when Native people use the concepts, they are betraying themselves by falling victims to foreign idealizations and stereotypes (Clifton 1990; Krech 1999). Yet, as O’Neill notes, “It

would be wrong to discard these terms altogether, since the categories themselves have become important cultural markers for American Indians” (2004: 10). Further, the use of “tradition” and similar concepts like “ecological nobility” by American Indians are not just “inventions” or cynical claims. In many cases, they are sincere attempts to express different views of the world and different philosophies toward the human-environment relationship (Nadasdy 2005). Often, in the realm of environmental policy, American Indians *must* engage with these concepts in order to effectively communicate “ecological legitimacy” to dominant institutions that would otherwise deny them access to a seat at the decision-making table (Pulido 1998; Ranco 2007).

While we must allow for these categories as instruments of description regarding overall themes (similar to the hermeneutics of Weber’s “ideal types”), and as anti-colonial tools and expressions of difference by Native peoples, we can still avoid reductionism. Recently, scholars have proposed articulation theory as an alternative way of viewing indigenous identity politics and cultural change. One of the leading voices on this perspective, James Clifford, is worth quoting at length:

Articulation offers a non-reductive way to think about cultural transformation and the apparent coming and going of “traditional” forms. All-or-nothing, fatal-impact notions of change tend to assume that cultures are living bodies with organic structures. So, for example, indigenous languages, traditional religions, or kinship arrangements, may appear to be critical organs, which if lost, transformed, or combined in novel structures should logically imply the organism’s death. You can’t live without a heart or lungs. But indigenous societies have persisted with few, or no, native-language speakers, as fervent Christians, and with “modern” family structures, involvement in capitalist economies, and new social roles for women and men. “Inner” elements have, historically, been connected with exterior forms, in processes of selective, syncretic transformation. (2001: 478)

Clifford suggests that, as opposed to viewing social or cultural formation as an organism, “[a]n articulated ensemble is more like a political coalition or, in its ability to conjoin disparate elements, a cyborg” (ibid.). Thus, when indigenous people make political claims based on culture, instead of being false or invented, they are legitimate *articulations*. Such a view eliminates the need for essentialist claims of authenticity, and conversely, essentialist accusations of *inauthenticity*.

To be clear, articulation theory is not “anything goes;” it has constraints posed by the collective. Articulation is “actively produced and potentially challenged” (Clifford 2001: 481). Like all social phenomena, articulation is mediated by the discursive boundaries set within a society at a particular time (Foucault 1972; 2003). A founding proponent of articulation, Stuart Hall, writes, “[A] theory of articulation is both a way of understanding how ideological elements come, under certain conditions, to cohere together *within a discourse*, and a way of asking how they do or do not become articulated, at specific conjunctures, to certain political subjects” (1986: 53, emphasis added). For indigenous peoples, the discursive boundaries are twofold: in order to make successful claims, they must meet the discursive conditions of both their own society and the dominant one. But while this seems limiting, we must remember that an articulation is merely the shell – the outer appearance – of a set of political claims and/or cultural expressions. While the articulation must resonate with what others conceive as possible within “the order of things,” its effects have the potential to change this order based on *how* the articulation is made. Thus, as I argue, the ways indigenous people articulate indigenous states

have the ability to contest the dominant order while operating within a mutually intelligible framework.

Viewing indigenous states as articulations eliminates the anxiety surrounding the appropriation of dominant political structures. It asks us to shed our uncertainty about whether the state form is antithetical or conducive to indigenous politics. It rejects the assumption that one culture's form cannot be employed by another without inheriting *all* of its accompanying philosophies and ideals. When we let others repeatedly make the contrast between "indigenous peoples" and "the states," as, for example, in the United Nations Declaration on the Rights of Indigenous Peoples, we allow our own political structures to become secondary in the realm of global politics. To do so is to weaken indigenous nations' presence in, and impact upon, this realm.

Indigenous States, Indigenous (Political) Ecologies

The field of political ecology, although it has eluded a hard-and-fast definition due to its diversity of approaches, has been broadly characterized as "a confluence between ecologically rooted social science and the principles of political economy" (Peet and Watts 1996: 6). Peet and Watts also note that "political ecology seems grounded less in a coherent theory than in similar areas of inquiry" (ibid.). Agrawal (2005: 210) identifies three of these areas to which political ecologists have committed their attention: 1) "an insistence on questions about social marginality and access to resources," 2) "the desire to investigate the political causes and effects of resource allocation," and 3) "[paying] close attention to the cultural, socioeconomic, and political contexts that shape the human use of resources." Furthermore, the field witnessed a structuralist / post-structuralist turn in the mid- to late 1990s, which introduced critical theory and thus opened it to related conversations in common property studies, peasant studies, feminist studies, postcolonial studies, power/knowledge studies, and development studies (see Robbins 2004: 41-70).

Much work in political ecology has focused on state schemes for controlling resources and the livelihoods attached to those resources – and for good reason: peasants, disenfranchised ethnic groups, and indigenous peoples have often been the victims of state programs that have turned once commonly-held resources into national property, resulting in the criminalization of subsistence lifestyles.¹⁵ Political ecologist Nancy Lee Peluso's (1994) work in Java (Indonesia) highlights the tensions between state forestry programs and local peasants' forest dependence. Although precolonial Javanese social conditions were not devoid of unequal power relations surrounding land and resources, the onslaught of colonialism (first by way of the United East India Company and followed by the Dutch colonial state) brought with it formalized methods for resource control. The Dutch colonial state began to establish forest reserves throughout Java in the late 1800s, and by the time of Japanese invasion and occupation in 1940, 3 million hectares of forest was under state control. Former Javanese peasant farmers had found themselves incorporated into the wage economy, which had effectively forced their participation in forestry extraction operations. This method of forestry policy continued even after the postcolonial turn in Indonesian history due to the stability of forestry bureaucracy and the pervasive ideologies of state control that had become a part of the bureaucratic culture of conservation. At the time,

¹⁵ The work of E.P. Thompson (1975) is known to have pioneered studies of this kind. Scott (1985), Peluso (1994), Jacoby (2001), and Agrawal (2005) are but a few more recent works in this area.

Peluso noted that in Java “[f]orestry has not only evolved as a science..., but also as a political-economic system for resource control” (237).

In this regard, Peluso pointedly notes the incompatibility between state bureaucratic and village-based ways of getting things done, as well as the vehicle that drives this split: state revenue generation through extractive forestry programs. Her assessment of the situation is comparable to dynamics within the Cherokee Nation: “The more bureaucratic and efficient the state becomes at producing forest products for itself, the more divorced it becomes from the daily realities of peasant economy that it is inextricably wound up with” (ibid: 247). As I will discuss in chapter 3, the Cherokee Nation takeover of the U.S. Bureau of Indian Affairs (BIA) economic forestry programs on Cherokee tribal lands in the 1990s did not immediately entail their reformation. In fact, BIA forestry programs – now run by the Cherokee Nation Natural Resources Department – have been continued up to the present, and their persistent form of bureaucratic culture and ideology of resource management is evident in activities like loblolly pine plantations and cattle grazing leases. Over time, these programs have proven controversial, and both communities and individuals have opposed their extractive and exploitative practices. In reaction to this, recently the Natural Resources Department has started to break away from BIA standard procedure by developing “cultural forestry” programs that “manage” resources for very different purposes. These programs include growing scarce medicinal plants on tribal land, developing a tribal heirloom seed bank, and planting culturally-significant trees used in local traditional crafts. The process of breaking away from colonial traditions of resource management highlights the differences between the Indonesian and Cherokee cases – namely with regard to the ideological and physical distance between “state” and “community” in each case, and the relative ease with which this distance can be bridged in practice.

Notable differences between the Indonesian and Cherokee cases concern issues of scale, societal demographics, colonial history, and the nature of past and present political formations. First, while class differences do exist in Cherokee Nation, they are not to the degree of those in Indonesia, mainly because the Cherokee Nation is a much smaller case. The entire population of the Cherokee Nation is just under 300,000, which includes at-large citizens living away from the tribal service area in northeastern Oklahoma. Of the total population, roughly 182,000 Cherokee Nation citizens live in Oklahoma, and the number of citizens who reside within the tribal service area is even less. Also, although the Cherokee Nation citizenry includes a mix of many different ethnic backgrounds, the common cultural identifier at hand is solely Cherokee. By contrast, the Indonesian state is made up of many different ethnic groups and language dialects that predate the formation of the Indonesian state. As such, “culture” – as a singular common heritage – is a much more powerful concept in the Cherokee Nation.

Furthermore, the colonial histories of Indonesia and the Cherokee Nation contrast both in timelines and forms of resistance. Whereas Indonesia experienced colonial occupation, incorporation into global market economies, and “decolonization” roughly around the same time as other “Third World” countries (from the expansion of imperial power in the early twentieth century to the post-World War II Era of the 1940s and 50s), the Cherokee Nation experienced colonization much earlier, and was left with a very different “post-colonial” situation – existence within a settler-state that rose to become an imperial “First World” power. And although Cherokee resistance did include movements of (often violent) opposition, the birth of the Cherokee nation-state in the early to mid-nineteenth century marked a definitive transition to *political* resistance, in contrast to the peasant movements in Indonesia. Again, due to the singular Cherokee “peoplehood” the 60-odd Cherokee villages scattered throughout the present-day

Smokey Mountains were able to unite to form a singular Cherokee “nation” in order to confront colonial pressures (as I will discuss further in chapter 1).

This comparison between the Cherokee Nation and Indonesia serves to underline the key political elements of Cherokee statehood, and the conditions under which Cherokee state resource management operates, in contrast to Third World postcolonial states. Due to the smaller scale of Cherokee society, its singular cultural heritage, and its past experiences with (and its own development of) state structures, efforts to “incorporate” traditional values, knowledge, and interests into the Cherokee Nation bureaucracy – although they remain problematic, as I discuss in chapter 4 – are more easily imagined than in a place like Indonesia. Yet, paradoxically, as a state within a (First World) state, the Cherokee Nation simultaneously maintains more control over its resource management methods and less control over its lands and resources than Indonesia. Thus, in applying political-ecological approaches to the Cherokee Nation case, I also account for these vital differences when discussing the Cherokee “state” and resource control.

While scholars should be critical in examining indigenous state-like governments and their methods of environmental governance, we have to keep in mind that these institutions, although they may seem to aspire to mainstream forms, often originated as reactions to colonial forces, and continue to serve as vital political barriers between indigenous communities and colonial state governments. And although tribal environmental policy in the Cherokee Nation – as it serves to both protect and govern access to tribal lands – is being met with difficult questions to which tribal communities are ever watchful and critical, the reality is that Cherokee state actors and natural resource managers are in the position to defy common “statist” tendencies by acknowledging local resource use and alternative perceptions of the environment, largely due to the fact that many of the state “actors” (i.e., tribal employees) *are* the resource users themselves. I find the recent developments in political ecology in terms of networks (Robbins 2000) and access theory (Ribot and Peluso 2003) to be particularly useful in understanding this situation, which I discuss further in chapter 3.

As unique political formations, indigenous states have the ability to protect indigenous homelands and territories, nurture tribal knowledges and environmental perspectives, and create new approaches to environmental conservation. In the case of the Cherokee Nation, indigenous state formation has directly contributed to what legal scholar Rebecca Tsosie calls tribal *environmental* self-determination: “The right to exercise sovereignty and autonomy over reservation lands and resources” (1996: 227). Tsosie further states, “The notion of tribal environmental self-determination suggests that the difficult choices about economic development and land use on the reservation should be the product of tribal decision-making rather than federal mandate” (246). I will demonstrate that in the Cherokee Nation, state structures are creating the political, physical, social, and ideological space for the protection and stewardship of indigenous environments on indigenous terms.

Organization of the Dissertation

Chapter 1 explores Cherokee historical state formation (both pre- and post- removal), and will consider that throughout history – and to this day – Cherokee society resists a centralized government. Cherokee state-building in the 18th and 19th centuries was not an easy task that everyone agreed on. It was indeed violent, and involved coercion and assembling networks of power and authority. Today, although the process is different, we should recognize the power

struggles that continue to exist in order to work toward a better future and a better nation. This chapter will also explain what has led to the Cherokee Nation we see today: the social and political history that defines the Cherokee Nation as a people, a government, a territory, a bureaucracy, a building, and a nation-state all in one. Locating Cherokee state formation in history will show that state-building is an ongoing project that has been in the works for a long time, with numerous accounts of federal intervention.

Chapter 2 describes the significance of ethnobotanical knowledge in Cherokee culture through time up to the present. I explain the both the development of Cherokee ecological knowledge upon forced relocation to lands west of the Mississippi, as well as the traits of this knowledge in the context of the social world of Cherokee plant medicine. It is important to consider the cultural taboos of this subject in Cherokee society so as to understand the obstacles and complications of undertaking a project like ethnobotany in the Cherokee Nation today. Because this knowledge cannot be taken out of its historical and social context, the contemporary tribal ethnobotany project must be adjusted to fit the cultural protocol of the knowledge-keepers. Consequently, in the hands of both tribal government actors and traditional “community people,” the project becomes one of nation-building and spiritual renewal. Thus, although such projects require much more effort than “objectively” recording knowledge, their results are much more rewarding.

Chapter 3 discusses environmental history and the politics of land ownership in the Cherokee Nation after removal. Using oral histories from the Indian-Pioneer Papers and Western History Collection of Oklahoma, I attempt to paint a picture of the early Cherokee Nation environment as a *human-produced* environment that Cherokees not only inherited from previous indigenous peoples, but also sustained by continuing “management” activities like controlled burning. I also discuss how politics shaped the Cherokee Nation environment, including the Civil War and the subsequent invasion of the railroad companies in the 1860s, the devastating Allotment Era of the late nineteenth and early twentieth centuries, fire suppression policies in the 1930s, and the more recent development of the Oklahoma state tourism department’s moniker for Cherokee territory as “Green Country.” I look in-depth at the consequences of the federal allotment policy in relation to resource access, and its effects on the tribal department most affected by this policy – the Natural Resources Department. I explore how the department assumed the land management responsibilities of the BIA when the Cherokee Nation established self-governance in 1990, eliminating BIA offices in Tahlequah. The purpose of this chapter is to highlight the messy reality of land and resource “management” when confronted with a checkerboard land base and limited choices of how to “manage.” Although the NRD took over the BIA’s responsibilities, the BIA never ceased its paternal relationship with the Cherokee Nation. Thus, the BIA still maintains the privilege of reviewing the NRD’s activities so that they conform to federal “best practices.” The paternal relationship with the BIA has created many hindrances for the NRD in its attempt to connect with Cherokee communities and citizens. The legacy of the allotment policy has also severely hindered the ability of the Cherokee Nation to create space for tribal autonomy due to the sparse amount of tribal land.

Using a political ecology approach, I discuss resource access in relation to the two levels of state dynamics in the Cherokee Nation: the relationship of the Cherokee Nation to the U.S. state, and the relationship of Cherokee citizens to the Cherokee state. Access to natural resources is something that the Cherokee Nation, as a tribal government with a distinct relationship to the U.S. government, can aid tribal citizens in acquiring. However, as a state, the Cherokee Nation can also grant or deny tribal citizens access to resources through the gate-keeping of tribal lands.

I explore these dynamics in the context of access theory (Ribot and Peluso 2003), which acknowledges the contingencies in human-government-land relationships. As such, this chapter connects land and resource access issues with the history of “bureaucratic imperialism” in the Cherokee Nation, and prepares the ground for chapter 4, which explains how the Cherokee Nation is currently resisting these restrictions and transforming the way it interacts with its citizens and the land.

Chapter 4 discusses current Cherokee Nation cultural projects that deal with the paradoxes of Cherokee state-building. The chapter focuses on the ethnobotany initiative and the elders group that has formed as a result. Through a discussion of the main themes from the elders group meetings, I highlight the transformation of certain NRD practices from bureaucratic to community-based, and the recognition by tribal officials of alternative, traditional sources of knowledge and protocol. I argue that this dialectical process encapsulates a key facet of indigenous state-building – the opening up of channels of communication that connect community concerns and knowledge to tribal governmental policy.

In the conclusion, I provide a discussion of indigenous state formation on a global scale. I bring in an analysis of the United Nations Declaration on the Rights of Indigenous Peoples (ratified in 2007 with four significant oppositions by Australia, Canada, New Zealand, and the United States), and how the discussion of indigenous states complicates this document (nowhere in the document is an acknowledgement of indigenous states – “indigenous peoples” are repeatedly juxtaposed with “the states”). As indigenous politics repeatedly escape absolutisms through “promising contradictions” (Tsing 2007: 33), Cherokee state formation is creating new space for the articulation of indigeneity – one that locates indigenous peoples elsewhere on the geographic scale than the one currently perceived by settler-states. In this light, I discuss possibilities for indigenous transnationalism that push the limits of indigenous global representation and highlight new avenues for achieving and maintaining justice.

Chapter One:

Cherokee Political History and State Formation

“The Cherokee legal experience illustrates that it was, in fact, possible to create Indian versions of white ways. The result, however, was not what ‘civilizers’ had expected. Instead of a weak carbon copy, an anemic shadow people, the Cherokees emerged as worthy adversaries who demanded that their institutions be respected. They had been schooled in the ways of the white man and demanded that they be extended the rights to which they were entitled by law. In the end, the monster, the Indian tribal state, the red man in the powdered wig, had to be destroyed. He had learned his lesson too well.”

- Rennard Strickland (Cherokee/Osage) (1975: xiv)

An old Cherokee legend recounts an ancient priestly society whose unchecked authoritarian rule of the people ultimately cost them their lives. They were known as *Ani-Kutáni*. While the name *Ani-Kutáni* has lost its Cherokee meaning, the story of this group of rulers persists as a moral lesson about Cherokee governance values. The legend describes the priestly hereditary society of men as once being held in awe by the people due to their heightened spiritual abilities. The awe people felt toward the *Ani-Kutáni* eventually turned into fear, and the *Ani-Kutáni* maintained social control by exploiting this situation and formulating moral codes. However, as time went on, the moral example of the *Ani-Kutáni* began to diverge drastically from their teachings. They became arrogant, disrespectful, domineering and licentious to the degree that their behavior was no longer tolerable by the people. An uprising was led by a young warrior who had been wronged by a member of the *Ani-Kutáni*, and the resulting massacre decimated the entire priesthood. (Fogelson 1984)

The legend of the *Ani-Kutáni* tells us much about Cherokee views of governance. The most apparent “moral” of the story is that authoritarian rule leads to undesired circumstances. It is a cautionary tale for those who would concede to being governed as such (resulting in unjust living conditions), and those who would aspire to rule as such (resulting in imminent destruction). The story also teaches by contrasting the form of governance and the behavior of the *Ani-Kutáni* with foundational Cherokee ideals of egalitarianism, respect for others, the maintenance of social harmony, and the importance of individual autonomy (Cooter 1998; Fogelson 1984; Thomas 1958; Wahrhaftig 1979; Wahrhaftig 1975b). As Fogelson writes, the story of the *Ani-Kutáni* highlights “the conflicting tension between tendencies toward hierarchy and movements toward egalitarianism” (1984: 260). Further, he claims, “It is unimportant whether the events recounted in the legend actually occurred; what does seem important, however, is that the narrative neatly captures, summarizes, and symbolizes significant processes of culture change” (ibid.). As we will see, the conflicting tension represented in the story of the *Ani-Kutáni* surfaces at key moments throughout history, and illuminates the struggle within Cherokee society to formulate an appropriate form of government amidst profound social and cultural change.

This chapter presents a diachronic view of Cherokee state formation in order to show how this process has involved intense internal deliberation in the course of numerous accounts of

colonial intervention. Early Cherokee state formation was a difficult but necessary process – a reaction to the violent birth of the United States. Yet, despite the strides that were made by creating state structures, multiple cases of federal intervention impeded the full development of this form on Cherokee terms, even up to the present day. Such hindrances have been a major factor in the disapproval of governmental structures by Cherokee communities. Further, it remains a problem that throughout history – and to this day – Cherokee society resists a centralized government. Understanding these dynamics through an historical lens sheds light on how gaps between government and community could be addressed effectively.

Early Cherokee State Formation

During the early 18th century, Cherokee society was organized at the village level, with each village having a population between 350 to 600 people (Gearing 1962: 3). The 60-odd politically independent villages throughout the present-day Smokey Mountains in the U.S. Southeast made up the “Cherokee tribe” (5). The political structure of each autonomous village or town was a dual system comprised of a “White” organization and a “Red” organization. Functioning independently of one another, but not simultaneously, these two “structural poses” defined the political organization of a Cherokee village “at a particular moment for a particular purpose” (15).¹ The White political organization was the most common structural pose, and governed domestic affairs in times of peace. The structure consisted of a hierarchy of peace officials and a council of town elders (including “beloved” men and women) who made decisions through consensus and embodied “quiet diplomacy” (Fogelson 1971: 328). The Red political organization, made up of younger warriors (mostly men), was given decision-making authority in times of war, and mainly dealt with affairs outside the village, such as hunting and commerce with other villages, tribes, or Europeans. Red officials led through more assertive means, using inspiration and charisma to gain followings (ibid). Operating throughout the village political structure was the matrilineal clan system. The seven clans played a major part in village governance to the extent that it was “necessary to have local representatives of all clans in each village in order to conduct major civic and religious activities” (ibid.).² Thus, Cherokee society at this time consisted of a network of autonomous villages with decentralized local governments

¹ Although Gearing lists *four* structural poses in his analysis, I focus on the two major poses of “red” and “white” for the sake of a simplified description and argument. Fogelson (1963: 730) points out that the remaining two poses might not necessarily be considered legitimate poses at all.

² The role of women in Cherokee society during this time was strong, drawing much of its influence from the matrilineal clan system. In this system, when a man and woman married, the man moved to his wife’s town and lived with her extended clan family. Any children would be raised as a member of the mother’s clan. For male children, the mother’s brothers (who were also of the same clan) served as the primary male figures. Cherokee women also had important leadership roles, mainly in the White government as “Beloved Women.” Although the outward face of Cherokee town leadership was male (the council was primarily made up of “Beloved Men,” and the “head man” served as town “chief”), women controlled much of the internal happenings of the village, and were the sole owners of village land due to their primary role as the village farmers. Further, the Beloved Women were often deferred to by the council of Beloved Men, and they also possessed the sole authority over the fate of prisoners of war. “War Women,” or younger women who displayed warrior attributes, were also given high status in Cherokee society, and most likely transitioned into the role of Beloved Women once they reached elder status. Due to the influence of Euro-American patrilineal values and the fading of the Cherokee clan system, through time the role of Cherokee women diminished, although it was certainly not obliterated. See Perdue (1998) for a thorough treatment of this subject.

connected to each other through a shared sacred history and ceremonial cycle, a common language (although there were four major dialects), a corporate territory, and clan/marriage relationships.

Toward the mid-18th century, the increasing encroachment of European settlers disrupted the village-organized system. Whereas before, each of the four major regions of Cherokee towns (the Overhill, Valley, Middle, and Lower settlements) dealt with external affairs on the level of a single village, or a small alliance of villages, colonial governments operating with an entirely different political structure began holding Cherokee villages responsible for the corporate whole of the “Cherokee tribe.” As Gearing states, with reference to the new Colony of South Carolina,

If a [European] trader were killed in Echota, the cornfields of Tugalo might be burnt.³ More hurtful still, trade to all the village might be cut off leaving Cherokee without ammunition and vulnerable to enemy tribes on the south, west, and north. By the early 1750’s Cherokee had recurrently experienced such reprisals, and with increasing frequency. Their first moves toward statehood were explicitly in response to this new fact: Persons in any village had no control over the behavior of other villages, and yet could be made to suffer because of that behavior. (1961: 131)

The tendency of colonial governments to assign corporate responsibility to individual Cherokee villages was based on the authoritarian rule and state structure of European countries. Prominent male leaders in single Cherokee villages were often perceived as “chiefs” who spoke for all Cherokees. The cessation of lands by these “chiefs” became an increasingly common act, and Strickland (1975: 51) argues that the emergence of the centralized Cherokee state and its accompanying legal system was an effort to prevent land loss and resist further encroachment. As Gearing states, “Cherokee villages began their career toward statehood under conditions of external duress; the recognized choice was statehood or pain” (1962: 109).⁴

The process of centralization was not without complications. Creating a singular government that represented nearly 60 formerly autonomous towns proved to be a delicate procedure. The first approach to this situation by the Cherokees was to “elevate their least coercive and most sensitive persons into the positions of greatest influence” (Gearing 1961: 132). Thus, former “White” officials assumed positions of leadership as a central council, and occupied the village of Echota – the first capital of the young Cherokee state (Gearing 1962: 89). Yet despite the intent to govern through “quiet diplomacy,” the reality was that this form of governance did not possess the necessary coercive sanctions in order to maintain a unified stance against colonial forces. Strickland notes, “The central problem faced by the Cherokee people during this period was resistance to white advancement through merging into a national state from highly individualized Indian towns under separate and often extremely jealous village leaders” (1975: 5). Further, the most immediate need for centralization was to control the widespread raids on settlers by young Cherokee men. These raids were escalating, as was the retaliation by settlers without discriminating between “friendly” and “hostile” Cherokee villages. The response was to turn to the former “Red” leaders for a solution. In the 1760’s, such leaders moved into positions of power and enforced tribal policy through coercive force. Gearing notes the birth of jails in the Cherokee Nation during this time (1961: 133).

³ The names Echota and Tugalo are names of old Cherokee villages.

⁴ For an in depth account of the relations between the Cherokees and the Colony of South Carolina, see Corkran (1962).

The Red leaders did not offer many solutions to internal conflicts among the Cherokees. Although fiercely nationalistic, the young warriors had “thrown the political structure away,” and Cherokee governance had slipped into “virtual anarchy” (Gearing 1962: 104). A tribal schism was created in 1775 by the sale of Cherokee lands that comprise the present-day state of Kentucky. The White chiefs had approved this sale, yet the Red chiefs vehemently opposed it. The White chiefs reacted by once again regaining control over Cherokee affairs; however, because of a severe lack of organization, the attempt soon failed, and the Cherokee “priest state” was never realized again. The faction between the young warriors and the elder priests became solidified in the breaking off of Chief Dragging Canoe’s band of warriors called the Chickamauga Cherokees. The Chickamaugans continued to inhabit the Kentucky territory and to make raids against who they believed were encroaching whites. The retaliation from colonial forces resulted in catastrophic destruction of Cherokee villages throughout Cherokee territory. Thus, the 1760s to the 1780s were characterized by chaos and disorder (Gearing 1962: 102-104).

Cherokee political relations with a newborn American nation made matters worse. The Chickamaugans had fought alongside British Loyalists during the Revolutionary War, and there were once again major ramifications that resulted for all Cherokees. The backlash from colonial frontiersmen consisted of continued raids on Cherokee towns, as well as forced land cessions in 1783-1784 (McLoughlin 1986: 21). To prevent further atrocities and establish order, the federal Continental Congress managed to convince the new states that it should have the sole authority to deal with Indian affairs. In 1785, representatives signed the Treaty of Hopewell, marking the first national treaty between the Cherokees and the United States. In this document, the Cherokees made considerable concessions with the hopes of obtaining peace. For one, they recognized that they were “under the protection of the United States.” They also acknowledged the role of the federal government to regulate trade and manage such affairs with the Indians as it saw fit. However, the treaty is significant in that it established Cherokee territorial boundaries and gave Cherokees permission to expel whites settled within those boundaries. Thus, to the Cherokees, the establishment of territorial sovereignty was worth a secession of some political sovereignty. Unfortunately, the states saw this treaty in a very different light – they considered it to eliminate Cherokee sovereignty altogether. Further, the Cherokees had not realized how weak the federal government was at this time in its ability to prohibit the encroachment of white settlers (22). Although encroachment and fighting continued, the treaty had established Cherokee borders, recognized Cherokee self-government and nationhood, and, for all intents and purposes, “agreed to protect what was left of Cherokee territory” (21).

By the early 1780s, Cherokees were experiencing intense changes in their way of life. To many historians, this period marks the end of traditionalism in Cherokee politics and in other aspects of Cherokee life. Gearing notes that from this point on, council meetings were no longer opened with prayer (1962: 103). Further, the ceremonial cycle that previously defined and divided village life into six distinct periods throughout the year was reduced to an annual Green Corn Festival. As Gearing highlights, the informants of the 19th century anthropologist James Mooney “pointed to the same decade as the time when the last great medicine men (read: priests) died” (104). The earth-based spirituality that had overtly governed Cherokee life went underground, and the medicine people who retained this knowledge became spread out and secluded (Fogelson 1984: 260; McLoughlin 1986: 15-18). The deerskin trade had significantly diminished wild game by the 1790’s, and white encroachment had severely impacted the range of Cherokee hunting territory. Thus, Cherokees began to move into a lifestyle of subsistence farming and animal husbandry (McLoughlin 1986: 25-30).

In 1792 the Chickamauga resistance was weakened with the death of Chief Dragging Canoe. Shortly after, in 1794, the Chickamaugans were defeated by Colonel James Ore of the new state of Tennessee. Around this time, many of Dragging Canoe's followers, along with an ultra-conservative faction that no longer wished to live in proximity to whites, began to move west of the Mississippi River into Arkansas territory (McLoughlin 1986: 163, note 37). Yet the vast majority of Cherokees remained in the homelands with no intention of leaving. At the turn of the century, centralization was again attempted by the Cherokees, this time experimenting with U.S. models of government. In 1797, Silas Dinsmoor, a federal agent to the Cherokees, persuaded the tribal council to adopt measures for centralizing political authority so as to establish order and stability (44). Strickland notes that at this time, a loose group of village headmen had evolved into a deliberative central council with a principal chief and a second principal chief (Strickland 1975: 56-57). Although still strongly representing a system of village autonomy, this council was charged with the task of creating and enforcing national laws to control disputes among all Cherokees. A council meeting was held that year, and national laws were declared against horse thievery (a major source of disputes between young Cherokee males and settlers) and retaliation against accidental murders (this prohibited the blood law, wherein a member of the murderer's clan was killed for the offense). At the same council meeting, an ad hoc law enforcement agency was established (McLoughlin 1986: 56).

The period of 1794-1810 involved reconciling the centralized government with a changing way of life. McLoughlin notes, "The Cherokees were demonstrating their reluctance to alter their traditional system of law and order; they did not like corporal punishment and they preferred decentralized town government. Such drastic changes had to come slowly" (1986: 46). Progress was still marked by factionalism – the Upper and Lower towns had become divided along a conservative/progressive line, an internal division that prevented national unity (57). Circa 1805 marked the "beginning of the end of Cherokee communal life" – a slow transformation from the central townhouse and ceremonial square, to nuclear families and individual homesteads (*ibid.*). During this period, Cherokees "had to find ways to accommodate old traditions to new circumstances" (*ibid.*).

Accordingly, in 1808, the deliberative council recorded in 1797 became the formalized Chiefs and Warriors in National Council Assembled. During this council meeting, the first written law of the Cherokee Nation was enacted, which permanently established a national police force (dubbed the Lighthorse Patrol) and completely abolished the blood law (Strickland 1975: 58). During the following council meeting at Willstown in 1809, the national council created the national committee – a mechanism to relieve the overburdened council (McLoughlin 1986: 157). The national committee was comprised of thirteen members to be elected by the chiefs of council. Responsibilities of the committee members included more bureaucratic tasks, such as managing the national treasury, dealing with the local Indian agency on a daily basis, and settling minor disputes and business matters. More importantly, the committee served as "a permanent, representative authority responsible and available at all times to oversee the general welfare" (*ibid.*). The committee met throughout the year, whereas the council had only one annual meeting. Its tasks also included setting the agenda for council meetings by condensing the issues for discussion, as well as setting policies and priorities. All the actions of the committee were subject to annual ratification by the council (*ibid.*).

The emergence of the national committee sparked a change in Cherokee political ideology. As an organized and central governmental entity, the committee was able to effectively stave off further land cessions that had been the result of disorganized and easily influenced

regional chiefs. The emphasis among both the council and the committee on retaining tribal lands, along with the creation of a successful centralized system of government resulted in a stronger sense of national unity. In 1810, the Upper and Lower towns reunited, and the Cherokees displayed solidarity in the face of ongoing attempts by Indian agents and the federal government to divide and conquer. One of these attempts, instigated by the Indian agent Return J. Meigs, was to convince more Cherokees to leave the homelands and settle west of the Mississippi in exchange for monetary compensation. The majority of Cherokees held their ground, believing that survival meant remaining as a nation on the land of their ancestors. Only a small amount of Cherokees took this offer, and the Council responded by declaring them “expatriates” whose citizenship in the Cherokee Nation was no longer recognized. Thus, the Cherokee Nation “was not simply a people; it was a place” (McLoughlin 1986: 163). The Cherokee “peoplehood” that consisted of a shared sacred history, ceremonial cycle, language, and territory (Holm et al. 2003), was becoming secondary to Cherokee “nationhood,” which focused on citizenship, loyalty to the national council, and residence within defined borders. Cherokees saw nationhood as a necessary measure for political survival.

During this time, it is notable that a small group of “mixed bloods” were becoming heavily involved in Cherokee politics. Children of European and Cherokee heritage had more access to formal European-style education, and were encouraged by their families to pursue this goal. Yet, instead of producing individuals completely assimilated to Euro-American ways, this process produced fiercely patriotic Cherokee nationalists like John Ross, John Ridge, and Elias Boudinot. Armed with an acute knowledge of the Euro-American legal and political process, individuals like these played a major role in the resurgence of the Cherokee Nation. In 1817, John Ross, the son of a white trader and a Cherokee mother, became the president of the national committee.

The national council meeting that year brought forth some major changes in the Cherokee political structure, codified in a political reform act. For one, the national committee was redefined as the “upper” house of the Cherokee government, which maintained its bureaucratic duties, but was also given the ability to draft resolutions and acts (although the council reserved final veto power). Significantly, the council meeting had also produced an unwritten understanding that the committee would be comprised of mainly educated persons of mixed ancestry who could read and write English. The council, however, would remain representative of the “full-blood” majority of the nation (McLoughlin 1986: 224-225).

Other significant facets of the political reform act of 1817 were the formal affirmation of Cherokee emigrants to Arkansas as expatriates, and the reassertion of traditional matrilineal property rights. The former was in response to the Treaty of 1817, signed by yet another group of Cherokees (this time numbering 4,000 and known as the “Old Settlers”), who ceded land in Tennessee and moved west to Arkansas. The latter secured the rights of women to land in the case that their husbands moved west and the U.S. government claimed that property in return for Arkansas lands. In this provision, husbands could not “dispose of” their wives’ property (McLoughlin 1986: 225). The reform act was a strong step forward in institutionalizing Cherokee nationhood, and it represented another move toward secular governance. Whereas the old religion and the roles of the medicine people (i.e. priests) were not obsolete, it was clear that the religious laws had taken a backseat to the new national political order. McLoughlin aptly notes that this move freed the religious institutions from the responsibility of dealing with the new political and economic problems facing the Cherokee people (226).

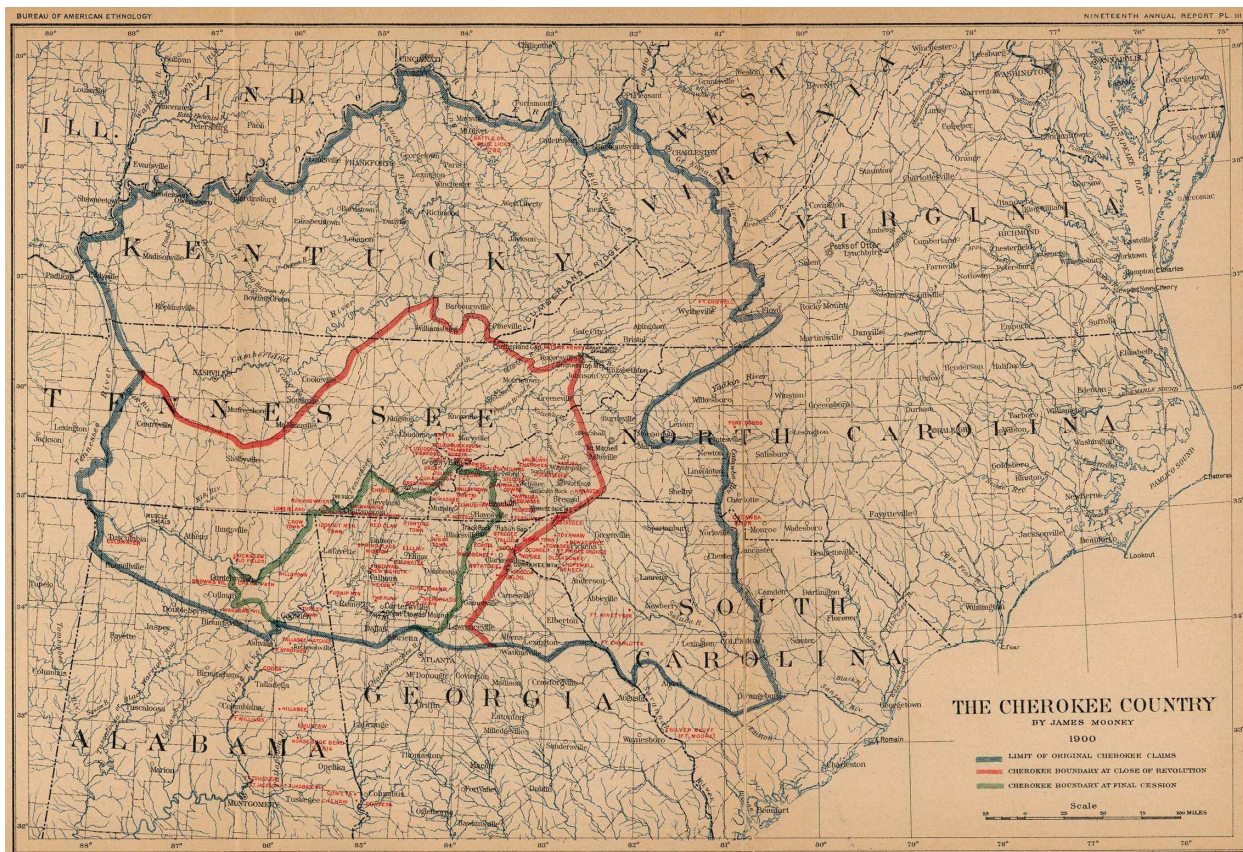


Figure 1.1. James Mooney's (1900) map of the extent of Cherokee land claims in the southeast, showing the progressive secession of territory up to the eve of Removal.

In 1820, a resolution passed by the national committee and council established a judicial branch of the Cherokee government. According to Strickland, the national committee had been serving as the executive, legislative, and judicial body since 1817, and the resolution sought to relieve some of these responsibilities (Strickland 1975: 63). This resolution modeled the judiciary branch after the Euro-American version. It consisted of four circuit courts and eight district courts, with additional positions created for marshals, light-horsemen, and rangers (64). A supreme court of the Cherokee Nation was established in 1823, and in 1827, a full Cherokee constitution was adopted, which created three branches of government (executive, legislative, judicial), with a bicameral legislature (the national committee and council). Although much of the language was modeled on the U.S. version, its most significant divergence was that it declared all lands within Cherokee Nation common property of the nation. This statement not only defined the territorial aspect of Cherokee sovereignty, but it also reinforced the idea that land belonged to the nation as a whole, and no individual could sell or cede any portion of it. The Cherokee Nation now had its constitution and government, and this presented a considerable obstacle to neighboring state governments, who refused to recognize any form of Cherokee sovereignty.

Over the next ten years, the Cherokee Nation used its sophisticated political apparatus to fight hostile and encroaching states and their citizens in the U.S. courts. The state of Georgia proved to be the most hostile in its pursuit of Cherokee lands, and the legal battle between it and the Cherokee Nation is well documented in the Supreme Court cases *Cherokee Nation v. Georgia* (1831) and *Worcester v. Georgia* (1832). Initially, the Cherokee Nation was successful

in its appeal to the U.S. courts, and Chief Justice Marshall declared legal victory for the Cherokees in *Worcester v. Georgia*:

The Cherokee Nation ... is a distinct community, occupying its own territory, with boundaries accurately described, in which the laws of Georgia can have no force, and which the citizens of Georgia have no right to enter, but with the assent of the Cherokees themselves, or in conformity with treaties, and with the acts of Congress. 31 U.S. (6 Pet.) 515.

However, it is often recounted that President Andrew Jackson, a strong supporter of states' rights and Indian removal, purportedly said, "Marshall has made his decision, now let him enforce it."⁵ Further, another schism had run throughout Cherokee politics during this time regarding removal. Many individuals who had participated in the Cherokee renaissance, such as John Ridge, his father Major Ridge, and Elias Boudinot, comprised what came to be known as the Treaty Party. This faction was in favor of voluntary removal to the Indian Territory on account of the hardships that many Cherokees had been suffering due to encroaching whites. They viewed removal as an inevitable outcome, and wished to negotiate its terms with the federal government. The opposing faction, representing by far the majority opinion of the nation, came to be known as the Ross Party – spearheaded by John Ross, who had been principal chief since 1828. This faction adamantly opposed removal from the ancestral homelands, insisting on the moral and legal obligations of the federal government to honor its agreements and respect Cherokee Nation sovereignty.

Yet, contrary to the original purpose of centralization, the Treaty Party, consisting of only a small group of men, fraudulently claimed to represent the Cherokee Nation by signing the Treaty of New Echota in 1835 – a capital offense for which they would later pay their lives. With Andrew Jackson as President and the Treaty of New Echota ratified, the Cherokee Nation had little recourse. The Cherokee political structures that had been developed to mimic and stave off colonizers on their own terms ultimately could not win over colonial force and legislative fiat. The result was the infamous Trail of Tears in the winter of 1838, which decimated the tribal population by one-third of its original size.

Commentary on Early Cherokee State Formation

The purposes of Cherokee centralization and state formation, although the specifics varied over time, were couched in the resistance to colonialism. National unification, the retention of the tribal land base, and an institutional memory of treaties and agreements with the colonizers were all reasons for the development of a Cherokee nation-state. As McLoughlin states, the Cherokees needed to "confront power with power" (1986: 278). The old governance structures were no longer effective under these circumstances. Yet, as we have seen, the development of Euro-American political structures was a dialectical process that involved engaging with these forms while always viewing them against the backdrop of culture and tradition. New forms of governance were adopted to the extent that Cherokees could reconfigure them to suit their situation. Often traditional structures like village or town leadership and

⁵ Clinton, Goldberg and Tsosie (2003: 87) note that this quote is most likely apocryphal, but reference Greeley (1884: 106) for the story.

representation were reinforced by these new forms. Further, the process was deliberate. As Strickland points out, the process was characterized by gradual, slow development – a redeeming quality of Cherokee cultural tendencies (1975: 72).

To be sure, there were limits to the success of this process. Although in many cases centralization had been accomplished by melding Euro-American models with Cherokee ones, the tendency by Cherokee leaders to replicate the Euro-American models grew in light of increasing colonial pressures. As Cherokee political structures began to differ progressively from traditional forms, internal social conflicts surfaced. McLoughlin notes that, “Some began to ask how the country was being preserved when it was daily changed to conform to white patterns. ...in order to survive as red men, they were told to become more and more like white men” (1986: 289). He highlights the difficulty of reconciling two competing systems of thought that is worth quoting at length:

The laws were Cherokee versions of white political structures. They created a professional bureaucracy for administration and record keeping. The General Council tried hard to reconcile old communal patterns and nomenclature (chiefs, council, speaker) with new structures. Behind the restructured system lay a new individualistic, competitive, acquisitive system of values that was almost impossible to reconcile with the tradition of harmony and cooperation. The Cherokees wished to demonstrate that they could govern themselves in an orderly, democratic, efficient manner while providing civil liberty for the individual. In the new market economy that generated the nation’s prosperity, the political structure was designed to protect property and contractual rights with which the older generation and town councils were not familiar and could not deal adequately. (287)

Further, by 1825 the new market economy had begun to create class divisions among Cherokees (ibid: 301). A wealthy class of plantation owners had developed among the nation, many of whom owned slaves. Not surprisingly, federal actors both encouraged and condemned this development – yet another attempt at divide and conquer. When the wealthy plantation class had reached a point of prosperity that rivaled their white counterparts, federal agents began to launch criticisms that aimed to position the wealthy class as exploiting the poor “full-bloods,” who were the “real Indians” (402). Even though capitalist success was not solely determined on racial composition (Major Ridge, an individual of high blood “quantum” and a fluent Cherokee speaker, was a successful plantation farmer and slave-owner), many outsiders were quick to make rash connections between skin color and social differentiation. Missionaries, who had become prevalent in the Cherokee Nation by this time, helped create this interracial ill-sentiment (363).

Incorporation into the capitalist market and the rapid adoption of Christianity had done much to strengthen, and, conversely, to divide the Cherokee Nation. It is true that the new written laws had been evolving to deal exclusively with problems that concerned the wealthy landed class. In addition, many laws undermined old customs while upholding Christian moral values (ibid: 389). More visible was the rise to prominence of many Cherokee Christians in tribal politics, which caused concern among some traditionalists. One such case was that of White Path, an old respected chief who was expelled from the national council in 1825 for allegedly opposing too strenuously the rapid changes in Cherokee politics. He was replaced by Elijah Hicks, a Christian. White Path reacted by leading a counterrevolution against the Cherokee constitutional convention for the sake of bolstering the old Cherokee way of life (388-402). The

movement was nonviolent and was carried out by employing the traditional Cherokee method of withdrawal to express disagreement and protestation. Its main concern was the limits of assimilation, and many Cherokees, both traditionalists and sympathetic Christians, mixed- and full-bloods, got behind White Path in order to raise important questions concerning the future of the Cherokee Nation.

The rebellion took form in extra-legal councils and speeches held at the town of Ellijay, close to White Path's home settlement. To White Path, the Cherokee Nation was on the cusp of abandoning all forms of traditional governance in favor of top-down aristocratic rule. Moreover, the aristocracy that had developed seemed not only to foster the adoption of Euro-American values and customs, but they also seemed indifferent and even ashamed of Cherokee traditions (ibid: 390). The balance that had characterized Cherokee political and cultural change in the recent past was being upset. This message was heard by the Cherokee legal government, and shortly thereafter, both parties agreed to a meeting. Free from federal intervention (both parties desired to keep outsiders unaware of this matter), the factions hashed out their differences and ultimately agreed to promote harmony between themselves in the interest of national unity. In a written agreement, the rebel party relinquished its revolution and consented to seek reform within the Cherokee Nation legal system (395).

Because there are no minutes of this meeting, many unknowns remain. What is apparent is that not all of the dissenters were on board with this agreement. Notably, White Path himself did not sign the written document. What is known is that the Cherokee Nation was under extreme pressure to remove from the homelands, and that the majority of White Path's contingency were opposed to this idea. One could deduce from this situation that some frank conversations were had with the rebels with regard to projecting an appearance of national unity so as to fight removal by any means necessary. It is also significant that after these deliberations the constitution was drastically modified from its original Christianity-laden form to include more suitable language that respected Cherokee traditions and religion (ibid: 396).

Regardless, the end of White Path's rebellion signified neither the full compliance of traditionalists with the state of Cherokee politics, nor the cooptation of traditionalist leaders by the legal government. The continued influence and power of such leaders was evident in their majority in the council and in the national population (ibid: 363, 404, 441). The reality was a matter of this population making concessions for the sake of outward appearance – an appearance of unity and “civilization.” Most Cherokees accepted the new constitution as one such outward projection – it was an “ideological statement to head off the vigorous efforts to remove them or take their land” (401). Whereas to some it may have conveyed another step toward acculturation, in effect, it did not significantly alter established practice. In fact, traditionalists had begun to get behind their regular system of government as a tool to prevent further divisions (406). When John Ross was elected principal chief in 1828, it marked the first time a “learned” person had occupied this position. Previously, the Cherokee Nation had been represented in this manner by non-English speaking traditionalists. As the new “face” of the Cherokee Nation, Ross would soon lead the Cherokee resistance to removal, with the backing of “virtually all of the elected chiefs and local headmen [i.e. traditionalists and elders]” (437).

Under the pressure of removal, Cherokee leaders had, to a degree, solidified their roles in the Cherokee Nation government. Traditionalists mainly served in the national council, overseeing internal community affairs and advising the committee from this grounded perspective. Formally-educated individuals were needed in the national committee to oversee bureaucratic affairs and to guide the nation's policy with colonial powers. While the national

committee tended to be made up of a Christian-oriented elite minority, they served the entire Cherokee people, the majority of whom were represented in the national council. It was a system developed under colonial pressures in order to deal with two very different views of the world. Nevertheless, it was a system that saw the value in synthesizing these views in certain areas in order to play the game while contesting its terms. In the case that leaders (both in the council and in the committee) moved too far away from a foundational body of beliefs and ethics, there were community sanctions (e.g. rebellion by withdrawal) that created dialog and led to reconciliation.

As we have learned from theorists Philip Corrigan and Derek Sayer (1985), state formation is “cultural revolution.” The formation of the Cherokee state was no different. I have shown that this process involved much internal strife, calling for deliberation and discussion, and resulting in both contestation and compromise. The most important aspect of this stage of Cherokee state-building was the ability of the Cherokee people to work through these issues internally, largely without outsider interference. The Cherokee people had articulated a nation-state in the fullest sense of the term, declaring absolute sovereignty within a territorial border. They claimed for their nation a status above that of the new neighboring states of Tennessee and Georgia, and that it deserved treatment as such.

Such a bold assertion in the face of settler colonialism created rifts in the colonizers’ rationalization of this policy, as seen in Chief Justice Marshall’s dictum in the cases *Johnson v. M’Intosh*, *Cherokee Nation v. Georgia*, and *Worcester v. Georgia*. Throughout these cases, Marshall raises questions about the sources and limits of U.S. claims over lands and its political relationship with Indian tribes. These cases reveal a colonial consciousness – an overt effort to justify colonial actions, which ultimately required the imagination of terms like the “doctrine of discovery” and “domestic dependent nations.” Andrew Jackson’s reaction to *Worcester* by blatantly ignoring the Supreme Court decision also revealed weaknesses in U.S. federalism and in its governmental structure. In short, although the relations of power between the Cherokee Nation and the United States were uneven, Cherokees made a significant impression on the process of colonialism, much of which provides the foundation for federal Indian law today. Although federal Indian law is still significantly flawed in its baseline assumptions (see Williams 1989; 2005), the Cherokee nation-state played a major role in codifying the current nation-to-nation relationship between modern American Indian nations and the federal government.

Ups and Downs in the New Lands

Upon arrival in the Indian Territory in 1839 (Figure 1.2), the Cherokee Nation, numbering about 14,000, found itself having to contend with the Cherokees who had been living west of the Mississippi as early as 1803. This group of western Cherokees, numbering only 5,000, was comprised mostly of the “Old Settlers,” who had set up their own government complete with council and principal chief, and the small Treaty Party, who had arrived after signing the fraudulent Treaty of New Echota in 1835. McLoughlin notes that, “the removal crisis so divided the Cherokees that they did not find real unity until after the Civil War, if then” (McLoughlin 1993: 5). Nevertheless, after a short period of readjustment in the new lands, Chief John Ross began negotiating the terms of reunion between the two groups. He knew very well that the existence of two Cherokee nations was an extremely dangerous situation, potentially leading to civil confusion, or worse, the federal government exploiting this situation by playing one party against the other (11).

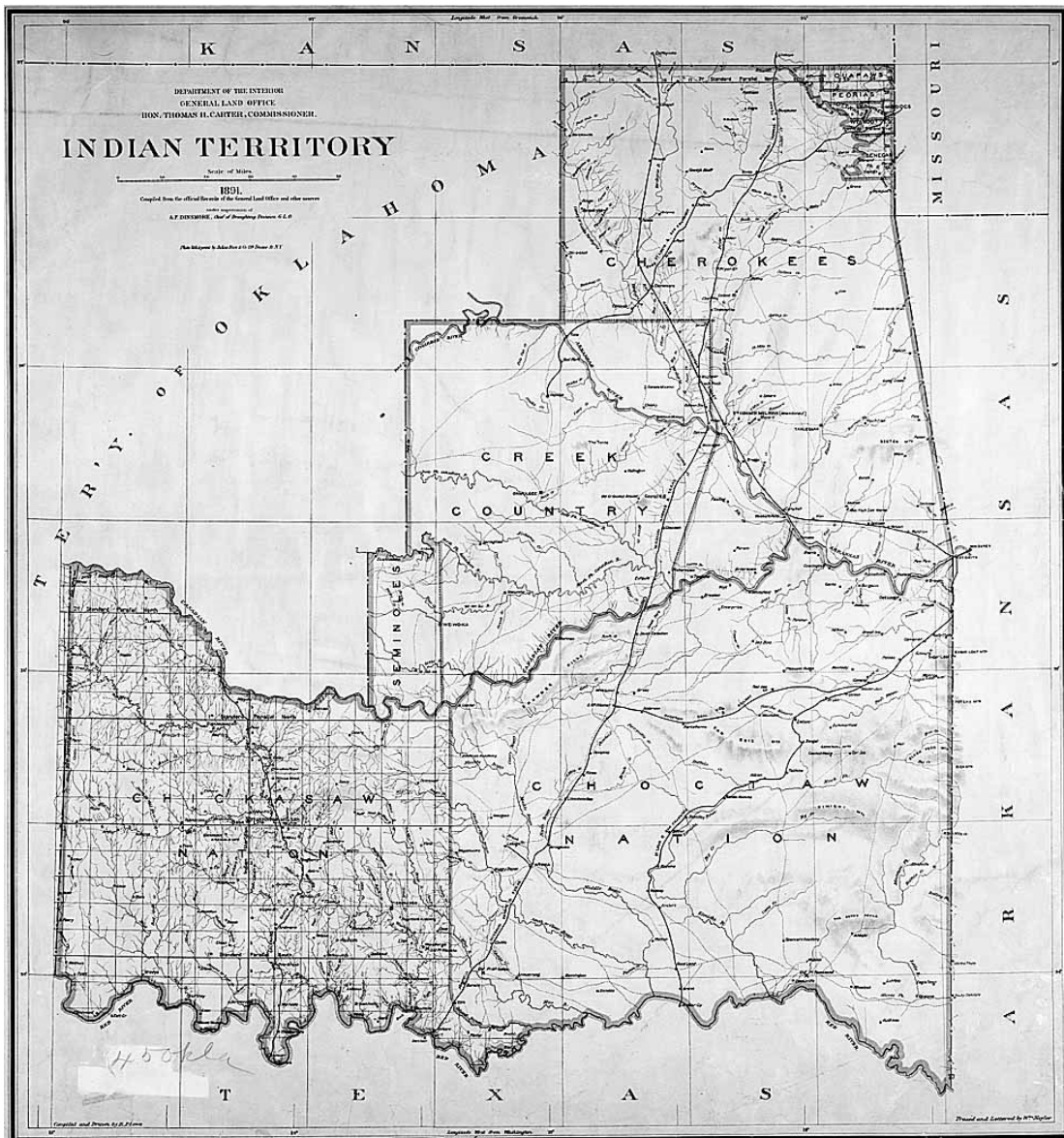


Figure 1.2. Map of the Indian Territory, 1891. Courtesy of www.archives.gov

But reunification proved difficult. Tensions were high between the Ross and Treaty parties, and, as delineated by Cherokee Nation law, the signers of the Treaty of New Echota were individually murdered for ceding the lands in the east. Further, the Old Settlers insisted on maintaining their government and representatives, while the leaders from the east did not show signs of compromise. To the latter group, those who had migrated west separate from the official Cherokee Nation had relinquished their rights as citizens. The burden was on the Old Settlers to negotiate reacceptance within the nation. This stalemate continued until two prominent Cherokee figures stepped forward to help deliberate the terms. With the help of Sequoyah, the charismatic orator and inventor of the Cherokee syllabary who had been residing with the western Cherokees since 1824, and Jesse Bushyhead, another charismatic leader known for his integrity among the eastern Cherokees, a people's council was convened on July 1, 1839 (ibid: 14). This was the first of many meaningful dialogs on reunification, which resulted in the adoption of a new Cherokee constitution on September 6, 1839. This new version only differed from the former 1827

constitution in that the principal and second principal chiefs were now elected by popular vote, rather than by the council (21).

Although the eastern and western Cherokees were symbolically reunited under the new constitution, intense factionalism and infighting continued between the Treaty and Ross parties for the next seven years. Retaliation ensued from the murders of the treaty signers in the form of numerous outlaw gangs throughout the Indian Territory and neighboring Arkansas. Unable to accept the validity of the Treaty of New Echota, John Ross made multiple trips to Washington to protest its terms and the price of \$5 million for the ancestral homelands. Yet, once again, the political survival of the Cherokee Nation lay in the maintenance of national unity, and Ross ultimately realized that he must compromise in order to achieve this. The violent actions of the outlaws had raised concern among the federal government, and it issued threats of intervention to control the “lawlessness.” In an act of concession, Ross agreed to enter into treaty negotiations with the Cherokee factions and the federal government, and in August of 1846, an arrangement was made that ended the bitterness between the parties and allowed for the true unification of the Cherokee Nation (ibid: 56-58).

The Treaty of Washington, as it was called, paved the way for the reconstruction of Cherokee government and communities in the new homeland from the ground up. In one of the treaty’s provisions, fee simple ownership of the land was granted to the Cherokee Nation, once again making it common property of the nation. Many Cherokee settlements from the east reestablished themselves in the familiar hill country of the Ozark Mountains. Another provision authorized the per capita payments owed from the federal government for the removal, creating the financial means for reconstruction. The town of Tahlequah was named the new Cherokee Nation capital, and a courthouse, jail, and male and female seminaries were erected – the first institutions of higher education west of the Mississippi. This period of relative prosperity has been called the “Golden Age of the Cherokee,” wherein “[e]conomic, cultural, and social institutions that had begun to flower before removal now came to fruition” (Strickland and Strickland 1991: 114).

Yet, whereas the 19th century was marked with moments of prosperity, these fleeting times were accompanied by two cases of virtual destruction. The onslaught of the Civil War in the 1860s brought violence and white encroachment to the Cherokee Nation. Some Cherokees chose to participate in the war – with groups fighting for the North, and others for the South. Following the Union victory, the federal government chose to punish the entire Nation for the actions of those who fought for the Confederacy. The punishment came in the form of another treaty (the Treaty of 1866), stipulating the forced secession of tribal lands for the settlement of white Americans, and opening up the territory to railroad companies (ibid: 117). Although once again prosperous in its pursuits of government, education, and economics, in the postbellum period the Cherokee Nation had to contend for a second time with large-scale non-Indian settlement within its borders. Furthermore, the end of the treaty era in 1871 marked a significant change in U.S.-Indian relations, shifting Cherokee resistance “from the open fields of treaty negotiation to the closed legislative halls of Congress” (ibid.).

The second case was perhaps the most destructive, and it was couched in outsider opinions of the Cherokee property system. Although social factions had come to divide the Cherokee Nation culturally, politically and spatially after removal, the tribe as a whole retained at least one common custom from the southeastern homeland: communal land ownership. The communal land use system, better described as “use-right land tenure” (Bays 1998: 10) was based on the assumption that all members of the tribe had full rights to unused land within the

Cherokee Nation land base (Hewes 1978: 1). While the land was considered to be owned in common by the Cherokee Nation, any improvements upon the land were regarded as strictly the property of the individual laborer, which could be sold or inherited (Bloom 2002: 498). Bloom notes that, in theory, this system could be seen as a relatively pure form of Lockean natural-right property (499). But this system differed from Locke in that the soil was not alienable. Whereas Locke writes of *possession* of the land itself,⁶ in the Cherokee system, once worked ceased, only a year's time would transfer the land back to the public domain. Land itself was not necessarily property as it was territory, and one could not territorialize more than one could work.

Unsympathetic American visitors and governmental officials perceived this communal system of Cherokee land use as inefficient, awkward, nonsensical, and a hindrance to Cherokee progress. Whereas the majority of Cherokee citizens enjoyed a humble but comfortable life under communal land tenure,⁷ the disruptions to the system caused by elite Cherokee entrepreneurs were the highlight of outside attention. The elite practice of hiring cheap outside labor (previously done by slaves) was beginning to create many problems for the Cherokee Nation, as poor white laborers began settling more and more within the borders, and elite landowners continued to grow rich from their plots of nontaxable property. But this issue was not met without opposition from common Cherokees. In 1876, newly elected Chief Oochalata, a fluent Cherokee speaker who had led a movement representing common Cherokees in 1875, launched a series of protests against the over-exploitation of common land. Oochalata's stance was nuanced – it embodied a Cherokee populism, similar to mainstream American populism, but “profoundly nationalistic and ethnic, despite its awareness of class issues” (McLoughlin 1993: 341). Whereas he identified with the tenets of populism, Oochalata knew that solidarity with disenfranchised whites and the American populist movement would result in the inevitable suppression of Cherokee concerns. The only approach was through separatism – the maintenance of Cherokee sovereignty (ibid.).

Oochalata enacted a stringent permit law on the practice of hiring outside labor with the hopes that this action would lead to land reform and a redistribution of wealth. However, because of the large amount of white laborers already living and working within the nation, Oochalata's administration did not have sufficient means to enforce this law, and it was soon repealed (ibid: 349). To make matters worse, the problems with land and labor monopoly had turned Indian sympathizers against the Cherokee system on the grounds of social injustice. They saw an elite few taking advantage of loopholes in the system to the detriment of disenfranchised, incapable “full-bloods” – even though Oochalata himself was a “full-blood” chief. Thus, the Cherokee Nation found itself criticized on every front: progressive-minded businesspeople and the federal government viewed actions like Oochalata's permit law as blocking the path of progress and exemplifying “regressive traditionalism” (ibid.), and American populists condemned what they saw as elite control over Cherokee affairs. Furthermore, ethnocentric and exaggerated caricatures of the property situation in Indian Territory produced reports of the “un-American” and “communistic” characteristics of the Cherokee customs by government officials. Just as Andrew Jackson had done in the midst of the removal crisis, the federal government exploited this

⁶ “As much Land as Man Tills, Plants, Improves, Cultivates, and can use the Product of, so much is his *Property*. He by his Labour does, as it were, inclose it from the Common” (Locke 1978 [1689]: 19, emphasis in original).

⁷ A non-Cherokee editor of a Fort Smith newspaper is said to have remarked about the Indian Territory, “As to the condition of the poor classes...they are much better off in every respect than the poor people of our own state...they are happy in the possession of their small farms...there are no paupers among them” (Bloom 2002: 513).

situation in order to intervene in Cherokee affairs, which conveniently fit along with its other policies of Indian assimilation and land expropriation.

Henry Dawes, a U.S. Senator from Massachusetts, made trips to the Indian Territory to survey and report on Indian land use. His reports simultaneously praised and criticized the Cherokee property system. Angie Debo writes, “The most partisan Indian would hardly have painted such an idealized picture of his people’s happiness and prosperity...but, illogically, the Senator advocated a change in this perfect society because it held the wrong principles of property ownership” (Debo 1940: 21). In Dawes’ words,

The head chief told us that there was not a family in that whole nation that had not a home of its own. There was not a pauper in that nation, and the nation did not owe a dollar... Yet the defect of the system was apparent. They have got as far as they can go, because they own their land in common... [T]here is no enterprise to make your home any better than that of your neighbor’s. There is no *selfishness*, which is at the bottom [i.e., foundation] of civilization. Till these people will consent to give up their lands, and divide them among their citizens so that each can own the land he cultivates, they will not make much more progress. (21-22, emphasis added)

This passage highlights the founding principles of the General Allotment Act of 1887. The concept of “selfishness” expressed by Dawes reflects the influence of Adam Smith’s ideas – namely his writings on self-interest as an inherent human trait (Smith 1901). Further, the objective in this discourse was to define the Cherokee system as inherently “backward” – standing in the way of progress. Tropes of backwardness rationalized the expropriation of “unused” land. The Allotment (or Dawes) Act proposed the “allotment in severalty” of communally-held Indian lands into 160-acre tracts for each head of household, 80 acres for unmarried adults, and 40 acres for each child (Debo 1940: 23).⁸ The un-allotted “surplus” land was purchased by the United States and opened up to non-Indian settlement. This policy was assimilative in nature, whereby Indian people were encouraged to do as their newfound settler neighbors and farm their plots as European-style yeoman farmers. Hence the policy was designed to break up communal land ownership among tribes, and, in the process, break up communities and traditional subsistence patterns.

The Cherokee response to this proposal was primarily stern resistance. The majority of Cherokees firmly supported their existing system, despite its purported flaws and problems. Those who supported allotment were either radical Cherokee assimilationists who saw conformity to American ideals as an inevitable, or were intermarried whites who saw economic opportunity in the surplus land that would result from allotment. In opposition to this policy, distinct forms of Cherokee resistance emerged. Both government delegates and non-governmental Cherokee traditionalists launched their own separate movements against allotment. In analyzing such counter-narratives and resistances, one can see how allotment policy hit a deep nerve in Cherokee society, challenging the basis of Cherokee sovereignty and identity.

Cherokee governmental delegates relied on their knowledge of the U.S. political system and their ability to engage in public debate (via publications and lobbying) to construct counter-narratives to allotment policy. Their arguments insisted on clarifying the Cherokee system of property, and often did so in relation to their view of the dominant system. In response to

⁸ Although I am assuming “head of household” meant *male* at this point in American history, Debo doesn’t explicitly draw attention to gender in her description of this subject. Further research is needed here.

incoming criticisms, delegates questioned and criticized the dysfunctional and visibly unequal American system of private property (Denson 2004). In Chief Dennis Bushyhead's words,

The only difference between your land system and ours is that the unoccupied surface of the earth is not a chattel to be sold and speculated in by those who do not use it... So long as one acre of our domain is unoccupied, any Cherokee who wishes to cultivate it can do so, and make a home, which is his. (1881, quoted in Denson 2004: 225)

As this quotation indicates, Cherokee political figures were able to counteract negative accusations by maneuvering within the political discourse and uncovering the hypocrisies of American ideals. Furthermore, the existence of political offices for such figures via the Cherokee state allowed for more effective confrontation on the moral grounds of "civilization." Through mimicry, Cherokee institutions were not merely "customary" structures that could be co-opted; rather, their resemblance of the federal models provided an ethically formidable entity to dismantle and required incredible leaps of irrationality in order to justify their termination.

Cherokee delegates and officials also argued avidly for the persistence of Cherokee autonomy and sovereignty in Indian Territory. This stance was perhaps the most critical, as sovereignty underpinned the existence of the Cherokee Nation. It also demonstrated the nature of their resistance, grounded in a national identity. This identity was couched in ideas of political autonomy and took on a distinct character, as political leaders and lobbyists assumed a role as protectors of sovereignty. This role, although extremely important and perhaps the most effective in keeping allotment at bay, differed quite significantly from Cherokee traditionalists.

Many conservative Cherokee communities worried that their political leaders stance against allotment could be easily swayed (Thomas 1961: 163). Thus, they felt the need to take matters into their own hands. The Redbird Smith movement, as described by Robert K. Thomas, was the culmination of the traditionalist resistance to allotment. Many traditionalists belonged to an already-established organization called the Keetoowah Society (ibid.).⁹ For many years during the proposals and planning for allotment, the Keetoowah Society held meetings to discuss these issues. Traditionalists saw allotment much in the same light as Cherokee political figures; however, their concerns about Cherokee autonomy had a more deep-seated religious significance. The concept of balance was an important part of traditional Cherokee life. Allotment, through its proposed coercive measures, directly violated treaties held between the Cherokees and the U.S. government. The potential breaching of these treaty agreements – which many Keetoowahs considered sacred agreements – signified a loss in the natural balance of life, and they reacted by turning to their old religion and withdrawing from political affairs.

They appointed Redbird Smith, a staunch traditionalist and a leader in the Keetoowah Society, to revive the old ceremonies that had been forgotten or lost during the removal. Smith traveled throughout Indian Territory, conversing with Creek and Natchez traditionalists and discussing the meanings of sacred Cherokee wampum belts (on which ceremonial meaning had been inscribed). Soon Cherokees throughout the Nation were reviving the ceremonial dances and other tribes were participating in the spiritual revival as well. The wampum belt collaboration also resulted in the Four Mothers Society – a confederation of traditionalists from all the "Five Civilized Tribes" (the Cherokee, Chickasaw, Creek, Seminole, and Choctaw nations) into one resistance organization. In a shift from previous political withdrawal, the Four Mothers Society

⁹ Pronounced "kih-TOO-wah." I use a different spelling than Thomas' "Ketoowa," following the current received form.

acquired lawyers for their cause and even sent delegates to Washington to fight allotment (ibid: 164).

Yet both forms of resistance – governmental and traditionalist – failed to overpower the underlying goal of allotment: the continued expropriation of Indian lands. The Curtis Act of 1898 nullified tribal court systems and declared all tribal law unenforceable. Under these harsh circumstances, in 1902 the Cherokee Nation was forced to negotiate the allotment in severalty of tribal lands (Heck et al. 2001: 31). Allotments were assigned to individual tribal members by means of a pseudo-census called the Dawes Rolls. Indian blood quantum – a federal invention designed to manage the racial composition of Indian people – was determined for each individual and those with one-half degree of Indian “blood” or more were restricted from selling or leasing their land because of a presumed lack of economic competence. In 1902, Redbird Smith and other leaders of the Keetoowah Society were arrested and forced to enroll for their allotments. This broke the back of the movement, and many of Smith’s followers submitted to enrolling themselves as well. After the rolls were permanently closed in 1907 (also the year of Oklahoma statehood), the remaining lands not assigned to individuals were declared a “surplus” and opened to non-Indian settlement.

But despite their defeat, both groups of opposition had voiced a conception of what it meant to be Cherokee, albeit in different ways. Traditionalist Cherokees initiated an effort to retain cultural and spiritual meaning throughout attempts to dissolve the Cherokee land base. This movement represented a response to the allotment policy in terms of peoplehood, and is indicative of how Cherokees had retained this identity as a *people*, separate from the nationhood espoused by the Cherokee government. Whereas the tribal government had evolved to articulate nationhood in response to encroachment, Cherokee notions of peoplehood – as individuals joined together through an interconnected matrix of language, land, sacred history, and ceremony (Holm et al. 2003) – had essentially gone underground and were maintained by religious societies like the Keetoowahs. A general concept of peoplehood was still an important facet of a traditionalist Cherokee worldview that surfaced in the form of resistance or rebellion when aspects of it were being threatened. White Path’s rebellion in the 1820s and Oochalata’s movement in 1875 had been for similar purposes: Cherokees were losing their way by succumbing to “corrupt white intruders and their alien values” (McLoughlin 1993: 341). Further, Oochalata had made these calls from the position of principal chief and as a fierce nationalist. Thus, nationhood and peoplehood, although distinct ideas of “community,” informed, strengthened, and overlapped with each other.

Rising from the Dark Ages

The end of Cherokee resistance to allotment and Oklahoma statehood in 1907 marked the beginning of a dark age for the Cherokee Nation.¹⁰ Although the Five Tribes Act of 1906 reaffirmed the existence of tribal governments “in full force and effect,” the governments were, for all intents and purposes, merely “paper” institutions. Starting in 1906, Cherokees no longer elected their principal chiefs – the federal government appointed them, often for the sole purpose

¹⁰ It is worth noting that in 1905, as a last ditch attempt for autonomy, representatives of the Five Civilized Tribes proposed an Indian “State of Sequoyah,” to be admitted into the Union as the forty-sixth state. This proposal was denied – perhaps fortunately, due to the repercussions it would have had on tribal sovereignty today. See Leeds (2007/2008) for an in-depth discussion.

of signing land leases and deeds as directed by the Bureau of Indian Affairs (BIA). The forty-year period that followed was one of virtual political inactivity, and the Cherokee Nation government was effectively under federal oversight for a period of sixty-five years. In the mid 1940s, tribal leaders began to reassert Cherokee political autonomy, but it was not until 1971 that the reinvigorated Cherokee Nation was able to hold its own elections and a constitutional convention, ending the federal appointment of chiefs (Strickland and Strickland 1991).

The federal Indian Claims Commission in 1946 created the first opportunity to rebuild the Cherokee Nation after allotment and statehood, providing a forum in which to litigate Indian claims against the United States. Principal Chief J. Bartley Milam, who had been chosen by the newly formed Cherokee Executive Committee and subsequently approved by President Roosevelt in 1941 (a significant improvement in the presidential appointment process), took the Cherokee case to Washington and won recognition by the federal government of the forced secession of 6,022,000 acres of Cherokee land during the turn of the century.¹¹ Milam was influential in his day as someone who promoted cultural revitalization, and he was the first to begin the process of buying back tribal lands that had been lost during allotment. Chief Milam also played a major role in the Tahlequah convention of 1948 that, according to Mankiller and Wallis, “was a major step toward the return of the tribal-council form of government for the Cherokee Nation” (Mankiller and Wallis 1993: 179).

After the death of Chief Milam in 1949, his successor, William Wayne Keeler, continued to work in this regard through the 1970s. The Stricklands describe Chief Keeler as “the most powerful, enigmatic, and controversial Cherokee tribal leader since John Ross” (ibid: 130). An oil executive from a prominent mixed-blood family in Bartlesville, Oklahoma, Keeler was a skilled businessman and politician, and has been criticized for not understanding the needs of common Cherokees (Wahrhaftig 1975a: 64). Yet, many accounts of Keeler from traditionalist Cherokees praise him as a good leader, and someone who connected with the people (Mankiller and Wallis 1993: 181).¹² Regardless of these conflicting opinions of his character, Chief Keeler was able to put his business and political skills to work for the Cherokee people, and the Stricklands note that “there is no question that when Keeler retired as chief, the Cherokee Nation had become a vital force once again” (1991: 130).

Upon his appointment by President Truman in 1949, Keeler further developed the Cherokee Executive Committee created by Chief Milam to resemble a more representative tribal council (Lowe 1996: 118). In 1952, using his personal funds, he established the Cherokee Foundation, a non-profit entity that could obtain and administer funds to Cherokee communities. This foundation would lay the groundwork for many of the social service programs operated by the Cherokee Nation today (120). In 1962, under Keeler’s leadership, the Indian Claims Commission followed through on its commitment and awarded \$19 million to the Cherokee people in Oklahoma, which produced small per capita payments to the individuals (or their heirs) listed on the Dawes Rolls. The remainder of the funds, in combination with another settlement regarding the Arkansas Riverbed (totaling about \$2 million), was used as seed money to continue rebuilding the Cherokee Nation (Strickland and Strickland 1991: 128-129).

¹¹ This land, called the “Cherokee Outlet,” was separate from the tribal corpus in northeastern Oklahoma. It had been given to the Cherokee Nation after removal, and was located along the northwest border of Oklahoma. The legendary Oklahoma land run of 1893 had settled the area, granting 160-acre plots to homesteaders.

¹² I also collected many personal accounts of approval for Keeler during my fieldwork, mostly from middle-aged individuals remembering what their parents had said about him.

With these funds, Keeler oversaw the construction of a hotel and restaurant on tribal lands to create jobs for Cherokees and generate revenue for the tribe. He created housing and job programs for tribal citizens in need of assistance, and erected the first buildings of what would become the Cherokee Nation tribal complex (later named the W.W. Keeler Tribal Complex). At that time, however, the BIA operated their Tahlequah offices from this location. Chief Keeler also held community meetings throughout the Cherokee Nation to inform people about governmental activities and to encourage leadership and involvement in the renewal of the Cherokee Nation government. He asked each community to appoint a spokesperson to act as a liaison for tribal affairs, reinvigorating a sense of community representation in Cherokee government (Lowe 1996: 122). Finally, the passage of the Principal Chiefs Act (Public Law 91-495) in 1970 authorized the people of the Five Tribes to select their principal officer by popular vote, and in 1971, Keeler became the first principal chief of the Cherokee Nation to be elected by the people since 1903.¹³

It is important to note that while the Cherokee Nation government was being rebuilt during the 1940s-1970s, a peculiar separate Cherokee political entity was forming. Earlier, in 1905, members of numerous factions of Cherokee religious groups formed the “Keetoowah Society, Inc.” Up until this point, the name *Keetoowah* had represented groups and individuals who maintained a religious lifestyle that resembled the old forms of Cherokee worship in the eastern homeland – for example, Redbird Smith’s organization mentioned above. With the coming of Oklahoma statehood, individuals of these religious groups sought to unify themselves as a political organization “that could take the place of the defunct Cherokee Nation” (Leeds 1996: 10). Yet, as a consequence of forming a political organization, which was seen by some to be outside the duties of the original Keetoowah principles, the members of the Keetoowah Society, Inc. lost the support of prominent religious leaders. This resulted in a clear distinction between the traditional religious Keetoowah society and the political entity “Keetoowah Society, Inc.” – later known as the United Keetoowah Band of Cherokee Indians.

In 1946, the United Keetoowah Band (henceforth the UKB) was formally recognized by congress under the guidelines of the 1936 Oklahoma Indian Welfare Act as “a band of Indians living in Oklahoma.” In 1950, the UKB was “legally” recognized by the Secretary of the Interior, but it wasn’t until 1979 that it was listed on the federal register (i.e., it became “federally recognized”). Although the reasoning for the establishment of the UKB has been described as a “measure of self-protection,” whereby certain Cherokees sought to react to unrepresentative leaders (federal appointees) and a loss of political control, its recognition by the federal government only stimulated factionalism within the tribe (ibid: 19-21).

In its early inception, the UKB worked closely with leaders like Chief Keeler on issues pertaining to rural Cherokee community development, and it served as a liaison to the marginalized Cherokee population (ibid: 36). Indeed, it could be seen as a necessary reaction to federal control of the Cherokee Nation political apparatus. But as the Cherokee Nation started to regain autonomy as a distinct political entity in the 1970s, the UKB sought to obtain its own autonomy as a separate entity. Federal officials who sympathized with the UKB saw their struggle in the same light as Andrew Jackson and the American populists before them: as marginalized “full-bloods” under the oppression and control of their lesser-blooded brethren. What they failed to see were the results of several decades of federal paternalism. The decision

¹³ Wahrhaftig (1975a: 68) claims that Keeler’s election was not truly a popular election, stating that less than half of the Cherokee people participated in the election. However, this could also be viewed as a consequence of a broken political system that was just beginning to reestablish itself.

to formally recognize the UKB only created more divisions and obstacles to the development of Cherokee governance institutions. While the UKB had once been declared the “balance wheel in [Cherokee] political life,” today it is a contentious political rival over resources and legitimacy with the Cherokee Nation, and this tenuous relationship is one of the main sources of political infighting today. Although members of the UKB are descendants of the same people represented by the Cherokee Nation (members in the UKB often claim dual enrollment in the Cherokee Nation), they set themselves apart from the Cherokee Nation on the basis of biological and political ideals. Whereas both the Cherokee Nation and the UKB base their enrollment on descent from individuals listed on the Dawes Rolls, the UKB requires a minimum blood quantum of one-quarter for enrollment in the tribe, and thus claims to represent the “real” Cherokees.¹⁴

Cherokee communities were also organizing themselves politically during this time. Albert Wahrhaftig, an anthropologist who carried out extensive ethnographic fieldwork among the Oklahoma Cherokees in the 1960s and 70s, experienced these dynamics firsthand, and his accounts, although hyperbolic at times toward the Cherokee Nation government, provide rich descriptions of Cherokee community life and culture. Wahrhaftig arrived in northeastern Oklahoma in the early 1960s as a researcher for the Carnegie Cross-Cultural Education Project – a University of Chicago-based initiative directed by “action anthropologist” Sol Tax. The Carnegie Project sought to promote cultural revitalization through teaching English proficiency, an odd approach, but nevertheless, a product of its time (Cobb 2007: 469). The project design evinced missionary-like motives, and was further couched in Sol Tax’s adherence to models of international modernization and development (Stocking 2000). Nonetheless, it was considered a project that would “empower traditional Cherokees to break through the structural isolation and marginality they experienced in their daily lives” (Cobb 2007: 465-466). Robert K. Thomas, of Cherokee descent and born in eastern Kentucky, directed the field activities throughout the project’s lifespan of three years (1963-1966). During this time, the project produced extensive social and demographic data of rural Cherokee communities (see Wahrhaftig 1968), a collection of Cherokee stories and a primer for the Cherokee language (demonstrating the reverse of Tax’s original goal of promoting English), and a Cherokee language newsletter and local radio program (Cobb 2007: 473). By the end of the project, Cherokee communities were displaying a newfound sense of pride, and a more acute awareness of their social and political situation.

However, the reaction to the Carnegie Project by Cherokee Nation governmental leaders was not so positive. Despite its seemingly benevolent purposes, tribal officials skeptically viewed the project and its directors as outsiders intrusively meddling in local affairs and threatening the legitimacy of the tribal government – an entity they were just beginning to rebuild.¹⁵ Although the overall tactics by Cherokee Nation tribal officials to suppress the Carnegie Project were less than honorable,¹⁶ my interpretation of this response is that it came from the need, once again, to present a *unified tribal body* while working with limited funds

¹⁴ I should note that my interpretation of this situation departs greatly from Leeds’ intended narrative. Whereas I argue that federal intervention caused the malfunction of Cherokee institutions and heightened political infighting, Leeds clearly uses her analysis of the UKB history to argue for the recognition of the Band as the representative body for the “real” Cherokees.

¹⁵ The general counsel of the Cherokee Nation at the time, Earl Boyd Pierce, openly questioned Bob Thomas’ claims of Cherokee ancestry, and challenged him to demonstrate his membership in the Cherokee Nation by proving his descent from an individual on the Dawes Rolls, which Thomas could not do.

¹⁶ Daniel Cobb claims that the Cold War political climate of the time influenced the perception of the project by tribal officials, who disputed its agenda on the basis its promotion of “communistic” values (2007: 478).

under the paternalistic oversight of the federal government. The formation of the Five County Northeastern Oklahoma Cherokee Organization by rural community Cherokees in 1965 further conveyed a sense of social unrest to the federal government, potentially compromising federal funding and services to the Cherokee Nation.

The Carnegie Project began to wane by 1966 due to the skepticism spread throughout northeastern Oklahoma by Cherokee governmental leaders (Cobb 2007: 480). Wahrhaftig stayed to continue his fieldwork among rural Cherokee communities, and he was asked to serve as the English language recorder for the burgeoning Five County Northeastern Oklahoma Cherokee Organization, which later became the Original Cherokee Community Organization (henceforth the OCCO).¹⁷ The OCCO organized in November 1965 as a reaction to restrictions on Cherokee hunting and fishing practices. In Wahrhaftig's words, "Interference with Cherokee hunting and fishing [in the form of impounding game, confiscating firearms, and levying fines] by Oklahoma state game officials... finally induced Cherokees to gather and seek redress of their grievances" (Wahrhaftig and Lukens-Wahrhaftig 1979: 230). The organization later "developed into a loose confederation of committees representing counties, individual settlements, and special interest groups... [and served as] an instrument of the Cherokee people as a whole" (233-34). Distinct from the more formal organization of the United Keetoowah Band, the OCCO was a form of Cherokee activism – a forum through which members could gather to envision a Cherokee society unhindered by the oppression and exploitation of dominant societies. It was a protest both to the state of Oklahoma and to the Cherokee Nation government that called for the recognition of rural Cherokee communities and their rights.

Wahrhaftig describes the OCCO as "the most comprehensive and impressive of modern Cherokee institutions" (Wahrhaftig 1975b: 145). Indeed, as a coordinated act of resistance, this organization was a unique and special moment in Cherokee history. The OCCO came to an end in 1973 due to the disillusionment of its members and a lack of funds (Wahrhaftig and Lukens-Wahrhaftig 1979: 240). Wahrhaftig views the organization as a failed endeavor caused by the re-organization and assertive presence of the initiative's hired non-Indian lawyer (*ibid.*); yet, there are aspects of its legacy that Wahrhaftig fails to recognize as positive contributions in the development of the modern Cherokee Nation. Wahrhaftig notes that the OCCO forced the "Cherokee Establishment" to grant official recognition to rural Cherokee communities and to relate directly to them for the first time (Wahrhaftig 1975b: 144-45). This resulted in the creation of what is now called the Cherokee Nation Office of Community Services, with hired positions for Cherokee community representatives. Wahrhaftig views this as the co-optation of the OCCO's efforts, but I argue that this demonstrates the purpose and efficacy of the group when viewed in the appropriate political-economic and historical perspectives, as I will point out below.

Wahrhaftig's work on the OCCO is a useful account of the development of a Cherokee institution. He argues that the process revealed primordial forms of Cherokee social organization – "the same processes... which led to the formation of the historic Cherokee Nation" (Wahrhaftig and Lukens-Wahrhaftig 1979: 224). Thus, he suggests that the development of the OCCO represented a "resurrected state" – the true Cherokee Nation (242-43). But his analysis is couched in his biased view of the Cherokee Nation tribal government of his time – what he

¹⁷ The name comes from the cohesive rural Cherokee settlements that are predominately located within five contiguous counties in northeastern Oklahoma: Cherokee, Adair, Mayes, Sequoyah, and Delaware. Kenneth Fink's dissertation (Fink 1979) provides a full chapter on the OCCO, which I bring into my analysis later in Chapter 4.

labels the “Cherokee Establishment.” His disdain for the Cherokee Nation tribal government of the 1960s is best exemplified in statements like the following:

The present Cherokee tribal government was created, and is directed, by white Americans of Cherokee descent who are legally recognized as Cherokee...the tribal government is a component of an entirely illegitimate and alien society which exists only by virtue of its unilateral abrogation of federal treaties...[it] explicitly pledges allegiance to the laws of the United States and the state of Oklahoma and to institutions which in the past and at present sanction the theft of Cherokee lands and assets. (225, 229)

This racialized analysis situates “white Americans of Cherokee descent” as neo-colonizers who have created a pseudo-government from scratch through which to exploit and oppress their darker-skinned, culturally pure, distant brethren.¹⁸ Yet this perspective seems to me a product of both the anti-establishment/anti-authority climate of the 1960s, and trends in the field of anthropology at that time, which sought to locate primordial peoples and “protect” their culture – a tradition that would later be discredited by works like Eric Wolf’s *Europe and the People without History* (1982). Additionally, Wahrhaftig assumes that the dissolution of the Cherokee Nation as a result of Oklahoma statehood had been valid, when in fact no laws have ever confirmed this.¹⁹ As mentioned above, Cherokee legal scholars Rennard and William Strickland highlight the 1906 Five Tribes Act (not mentioned by Wahrhaftig):

The terms for the 1906 act for continuing tribal powers are clear. “Sec. 28. The Tribal existence and present Tribal governments of the Choctaw, Chickasaw, Cherokee, Creek and Seminole Tribes or nations are hereby continued *in full force and effect* for all purposes authorized by law, until otherwise provided by law.” ... No laws have since been enacted to restrict these recognized powers.²⁰ (1991: 123, emphasis added)

In this context, mixed-blood elite Cherokees did not assume the position of the colonizer (as Wahrhaftig paints the picture); rather, they acted on a role that was assigned to them, and U.S. federal hegemony prevailed among the leadership to produce the situation at the time. This is not to deny the unequal relations of power that did (and do) exist within the Cherokee Nation, but it serves to reframe our analysis of historical events in order to move beyond polarized – and sometimes overly and inaccurately racialized – conceptions of Cherokee politics so that we can explain the positions of multiple and internally diverse actors.

Furthermore, Wahrhaftig’s analysis fails to historicize factionalism in the Cherokee Nation. Indeed, factionalism has existed in the unified Cherokee Nation since the dawn of its inception in the late eighteenth century. It is far from a new phenomenon, and Cherokees have

¹⁸ Other work during this time (mostly carried out by Carnegie Project researchers) reaches similar conclusions (Fink 1979; Wahrhaftig and Thomas 1981; Murray Wax 1971; and Rosalie Wax 1971). I should emphasize the value of this work in providing thoughtful and thorough cultural analyses, as well as important snapshots of Cherokee life during this time. It is obvious that I rely on Wahrhaftig throughout this dissertation in that regard. I present my critical assessment of this work (see also Chapter 4) in order to provide a fuller picture of Cherokee politics, which I have gleaned from my own fieldwork and political/historical analysis.

¹⁹ On a more radical note the belief in the dissolution of the Cherokee Nation assumes that the U.S. government has the ability to perform such an act, thus validating federal plenary power, which runs contrary to the foundations of tribal sovereignty. See Williams (2005) for an exegesis of this concept in federal Indian law.

²⁰ The phrase “full force and effect” was used by the organizers of the 2006 Cherokee National Holiday in Tahlequah as the theme for that year’s celebration.

innovatively developed *ways to deal with this*. I argue that institutions like the OCCO and the United Keetoowah Band exemplify these innovations. They are reoccurring historical patterns – social movements in response to dire circumstances. Other movements such as White Path’s rebellion, Oochalata’s movement, and the Redbird Smith movement illustrate earlier instances, and all of them are in some way a reaction to the loss of control over tribal institutions due to federal (colonial) intervention.

The degree to which the Cherokee Nation is able to work out these internal issues on its own accord affects the success of such movements. The efforts of the OCCO and the resulting recognition of the subordinated status of rural Cherokee communities by the Cherokee Nation government represented an acknowledgement of problems in Cherokee society that needed to be addressed. The creation of a system of community representatives marked a significant development in the rebuilding of the Cherokee Nation during this time. One could argue further that this movement led to future changes in the tribal government, including demographic shifts in the tribal leadership starting in the 1980s that are more representative of rural Cherokee communities. Thus, the movement served its purpose and was successful in prompting social change, but it did not become a permanent fixture in Cherokee politics.²¹ The similar issue of the United Keetoowah Band, however, resulted in the formal and permanent establishment of factionalism within the Cherokee Nation due to the intervention of the federal government. Legally recognizing the UKB only made things worse – it further divided the tribe and inhibited possibilities for solidarity.

In sum, I argue for the need to focus less on tribal infighting and more on the overall political economic situation in order to understand the causes of Cherokee institutional malfunction. Although his work is useful for understanding Cherokee social and cultural dynamics during that time, to continue in Wahrhaftig’s tradition would lead to faulty analyses of the nature of Cherokee Nation governance institutions. His method of analysis is unable to explain the current social makeup of the Cherokee Nation and the complex issues that it presents. I do not aim to naturalize Cherokee social movements as inevitable, or to deny unequal relations of power among Cherokee citizens. The movements that occurred in the 1960s were significant reactions to dire circumstances, not merely expected “checks and balances.” Rather, viewing these movements as part of reoccurring historical patterns allows us to see their shared origins, and that similar movements could happen in the future if the Cherokee Nation is not able to deal with internal issues on its own terms. Unless free of outside intervention, the Cherokee Nation will be unable to reconcile its formal and informal institutions in meaningful and equitable ways.

²¹ Interestingly, Wahrhaftig (1975: 136-139) makes a very similar claim about Cherokee institutions that don’t “get off the ground.” In the case of a Cherokee community church that had lost control over its functions (due to a newcomer preacher who promoted “white” Christian ways and ceased the use of the Cherokee language during services), the old men of the church formed a coalition with the local Four Mothers Society (non-Christian Cherokees who practice the old religion) in order to build a new institution – a Sunday school – for teaching the written Cherokee language outside of a religious context. As the discussions developed and plans were proposed, the word got around to the rest of the congregation, who viewed this act as a sign of withdrawal (in Cherokee, this is a firm sign of disapproval). Sensing the unrest as a threat to the existing institution (the community church), the congregation legally replaced the new “white-oriented” preacher with one who was well-known for promoting Cherokee values and the Cherokee language. The Sunday school never materialized, and things went back to normal at the community church. Wahrhaftig argues that instead of viewing this prospective institution as a failure, it should be viewed as serving its purpose by effecting the outcome of events – namely, a return to the Cherokee way of Christian worship. This anecdote (and even the rest of the paper) is in-line with my thesis here – that the OCCO was never intended to be a permanent separatist institution; rather, it served a purpose by forcing the tribal government to react to it in ways that addressed its demands.

Self-Determination and Contemporary Forms of Cherokee Governance

With the election of W.W. Keeler as Principal Chief by the people in 1971, the Cherokee Nation once again had control over its government. Although this sovereignty differed significantly from that of pre-Oklahoma statehood, leaders began to focus on reforming the tribal government from a “paper” institution back to a constitutional government. Keeler began this process by appointing a small group of community representatives to work on a new Cherokee Nation constitution, but he resigned from politics in 1975 after a short four-year term. His successor, Ross Swimmer, went on to spearhead the new constitution. Also an affluent businessman, Swimmer’s approach to restructuring the Cherokee Nation government was based on efficiency and corporate models. In his view, the more efficiently the Cherokee Nation government administered services to the Cherokee people, the better off Cherokee communities would be. As such, the tribal council created by the new constitution in 1976 was based on a unicameral corporate model, despite early discussions about re-creating the bicameral legislature of the 1839 constitution (Lemont 2006: 291). Although the 1976 constitution reestablished the tripartite system, including the judicial and executive branches, the government was designed to be more of a service organization than a proper government (292). Lemont notes that this form was a product of the circumstances: “For almost seventy years, the Nation had had no enrollment and no government. ... Instead of creating a government, Swimmer simply wanted to organize a system for the improvement of the delivery of services to individual Cherokees” (ibid.).

Nevertheless, for the next twenty years the Cherokee Nation thrived under its new constitution, developing a strong reputation as a stable and influential tribal government (ibid: 293). Following Swimmer’s ten-year term, in 1985 Wilma Mankiller was elected principal chief – the first woman to serve as principal chief of the Cherokee Nation. The Stricklands note that this accomplishment “[brought] forward and fulfill[ed] a tradition of leadership that dates back to the ‘Beloved Women’ leaders of the precontact and preconstitutional eras” (1991: 132). They further recount:

Speaking of her electoral victory, Mankiller said that the most important thing about her election was not that she was a woman, but that she represented a different kind of Cherokee, from a new background, with a different agenda. She did not have a national power base, profession, or position of wealth, but rather she was an Indian from an Indian community who had worked with Indian needs from within the Indian nation. (ibid.)

This observation highlights the demographic shift in tribal leadership noted above. Although Mankiller had been raised in the San Francisco Bay Area for much of her life, she had returned to her home community to work on a grassroots level, and had already initiated important changes in Cherokee community development. In 1981, she helped to found and then was named the first director of the Cherokee Nation Community Development Department, which, much like Keeler’s Cherokee Foundation, served to procure and administer funding for rural community projects (Mankiller and Wallis 1993: 233).

In 1990, Chief Mankiller signed the historic self-governance agreement with the federal government, eliminating the BIA offices in the tribal complex and authorizing the Cherokee Nation to assume responsibility for former BIA duties (Mankiller and Wallis 1993: 290-291). These duties ranged from administering tribal funds to managing tribal natural resources, and around this time a flurry of tribal departments were established (including the Natural Resources

Department). This era marks another significant step forward in contemporary Cherokee Nation governance, as tribal programs were reclaimed from the paternal hand of the federal government. It also marks a significant development in contemporary Cherokee state formation, as these new tribal departments and programs began to form a more complex, sophisticated, and bureaucratic state structure.

In 1994, after her third term as principal chief, Mankiller decided not to run for office again. The election that followed proved to be the most controversial in contemporary Cherokee history. The front-runner and the candidate endorsed by Mankiller, George Bearpaw, had been disqualified from the election race due to an obscure felony on his record – a crime that had been expunged under Oklahoma law. However, his political opponents pointed out that the only exception to this rule in the Cherokee Nation constitution was a pardon (Heck et al. 2001: 36). Despite calls by many Cherokees to carry out another election race, the election was given to the only remaining eligible candidate, Joe Byrd.²² Thus, the Byrd administration was marked with deep political factionalism from the beginning. The problems with the administration began in February 1997, when the Cherokee Nation’s highest court, the Judicial Appeals Tribunal, issued a warrant granting the Cherokee Nation Marshal Service to search the executive offices at the tribal complex for evidence of illegal activity. As Chief Byrd arrived at the complex that day, he encountered the marshals during their investigation and ordered the director of the Marshal Service, Pat Ragsdale, to stand down (37). When Ragsdale refused, Byrd placed the marshals on immediate administrative leave, replacing them with his own private police force. Soon after, Byrd “impeached” all three tribal justices, and with his private security force, took over the tribal courthouse in downtown Tahlequah (Heck et al. 2001: 37; Lemont 2006: 293-294; see also Mouser 1998/1999).

The crisis culminated when the fired marshals and justices attempted to reclaim the tribal courthouse in August 1997. By this time, the crisis was receiving national news coverage, and the U.S. congress was threatening to intervene. Under these circumstances, both factions grudgingly agreed to a meeting mediated by Interior Secretary Bruce Babbitt to resolve the issue. But the resolution was only temporary, and in early 1998, Byrd manipulated the judicial branch by moving its offices out of the courthouse and into the tribal complex – effectively usurping the power of the court to file charges against him. As of April 1998, the tribal council was so divided that official council actions were delayed for more than a year because of the inability to obtain a quorum (Lemont 2006: 294). As Heck et al. state, “the entire Cherokee Nation government practically came to a standstill” (2001: 37).

In the midst of this crisis, the Cherokee Nation was experiencing a significant attempt at governmental reform. In 1995, Cherokee Nation citizens had voted to hold a constitutional convention. A clause in the 1976 constitution required that the tribal government submit to Cherokee Nation voters the question of a proposed constitution convention at least every twenty years. With the plans for a convention underway, the organizers faced the difficult task of bringing the Cherokee people together under the conditions of intense factionalism. In a lengthy and delicate manner, the small group that made up the convention rules committee managed to form an independent Constitution Convention Committee that maintained a stance of political neutrality. By 1998, the Committee had received formal approval from the entire council, along with an initial budget of \$250,000 to begin the process of reform, and by 1999, the Committee had formed a group of seventy-nine delegates that represented all political factions. On February 26, the delegates convened for the first day of a nine-day convention held on the campus of

²² Although a controversial figure, Byrd was from a Cherokee community and spoke the language fluently.

Northeastern State University in Tahlequah – the site of the old Cherokee Female Seminary. This momentous occasion produced the 1999 constitution, under which the Cherokee Nation operates to this day (Lemont 2006: 295-298).

The convention produced lively debate on many issues, most notably on “the growing disconnect between the [1976] constitution’s corporate model of government and the Nation’s phenomenal growth in population, diversity, and assumption of governmental responsibilities over the preceding three decades” (ibid: 300). Eric Lemont states,

Between 1970 and 1999, the Nation’s population had grown from 40,000 to more than 200,000. The government had contracted or compacted with the U.S. government in a host of different areas, including housing, health, economic development, elderly programs, education, and environmental management. As a result, the Nation’s budget had ballooned from \$10,000 to \$192 million. (ibid.)

In this regard, the four main debates centered on bicameralism, strengthening the judiciary branch, providing representation to nonresident Cherokee Nation citizens, and requiring a minimum blood quantum for the office of principle chief. As a result of these debates, the former Judicial Appeals Tribunal was strengthened and renamed once again the Cherokee Nation Supreme Court, and positions were created for two at-large council representatives; while a requirement for minimal blood quantum for the principle chief was turned down, as was a return to a bicameral legislature. Interestingly, despite an informed and energetic debate, the proposal for reinstating the bicameral legislature was denied on the basis of cost (302). The 1999 constitution also establishes the position of Secretary of State (who replaces the deputy chief as president of the council), and the Offices of Attorney General and Marshal. A formal statement of Cherokee Nation territorial jurisdiction is included as Article II, and term limits are set to a maximum of two four-year terms for council members and the principle and deputy chiefs. Further, Article XVIII requires that the constitution be printed in both the Cherokee and English languages.

Ratification of the new constitution was a lengthy process due to the issue of federal approval. The 1976 constitution required that any amendments or new constitutions be approved by the President of the United States. Lemont notes that this was a defensive maneuver by Chief Swimmer to ensure its recognition by the U.S. government after a period of federal control of tribal affairs (ibid: 308). The BIA’s reaction to the 1999 constitution was disapproving, and comprised of a series of both mandatory and recommended changes. In 2000, the tribal council reacted by proposing a new amendment to delete the federal approval process. In 2002, after a change of guard at the BIA, this amendment was approved, and on July 26, 2003, the 1999 constitution was ratified by a vote of the people.²³

In 1999, Chadwick Smith, great-grandson of traditionalist Redbird Smith, defeated Joe Byrd for the office of principal chief. A trained lawyer and savvy politician, Smith was closely involved with reclaiming the courthouse during the Byrd crisis. Along with fluent Cherokee speaker and traditionalist Hastings Shade as deputy chief candidate, Smith ran for election promoting transparency and honesty in governmental affairs, and the two easily won the votes of the people.²⁴ Smith has continued to lead the Cherokee Nation up to the present day.²⁵ His

²³ However, due to more complications with the BIA, the issue of federal approval would not be resolved until 2006.

²⁴ Deputy Chief Shade resigned from office after his first term, and was replaced with Joe Grayson, also a fluent Cherokee speaker, as well as a community organizer and veteran.

administration and political platform has been described as “a new style of Cherokee politics, one that integrates traditional forms of Cherokee culture into their modern bureaucracy” (Sturm 2002: 104). While in office, Smith has followed through on many of his goals for linguistic and cultural revitalization. In 2001, the Smith administration oversaw the opening of the Cherokee language immersion school for children from pre-school to sixth grade. Smith has also made a strong commitment to Cherokee communities, encouraging their involvement in the tribal government, as well as promoting community autonomy and leadership. He has employed and popularized the Cherokee term *gadugi* to represent a broad ethic of community-building. The term refers to the voluntary work crews that communities once formed to help families in need (Fogelson and Kutsche 1961), but it has evolved to mean coming together to work for the good of all Cherokees.

Yet, despite Smith’s continued efforts at nation-building, the Cherokee Nation is still dealing with the legacy of federal control of tribal affairs during the Cherokee “Dark Ages.” To this day, there are few aspects of formal tribal institutions that resemble the traditional sources of authority maintained by the earlier Cherokee Nation governmental structure. From its inception in the late 18th century, Cherokee state-building involved asking towns and individuals to sacrifice some of their autonomy for the survival of the Cherokee people. The collective network of towns that once comprised “the principle people,” or *Aniyvwiya*, became the satellite communities of a centralized Cherokee Nation, or *Tsalagi-hi Ayehli*. The re-creation of the Cherokee Nation as a service organization in the 1970s accomplished the immediate tasks of administering funds and helping communities with basic needs, but the entity was not intended to serve as a governing body.

Notwithstanding a significant process of reform, the tribal government continues to operate under this corporate structure. The unicameral tribal council consists of elected politicians, not the council of elders that once directed Cherokee politics. The reaction by many Cherokee communities to this system has been skepticism toward, and disengagement from, the tribal government. To the extent that the tribal government is currently attempting to engage with communities, actors working on these initiatives are finding a lack of proper social and political structures within the tribal governmental apparatus for meaningful engagement on these grounds. Thus, while there is a long history to draw from, contemporary Cherokee state formation is really only in its beginning stages. This process involves fusing together mainstream notions of “nation” with persistent Cherokee notions of social and political organization (i.e. autonomous communities). In other words, the Cherokee Nation must reconcile its centralized government with Cherokee cultural tendencies toward decentralization.

The elders group presented in the introduction engages with these issues in interesting and useful ways. Although it is not a movement *per se*, the group displays aspects of historical movements like White Path’s rebellion in that it asserts its authority on the basis of principles very different from those found in the tribal government today. Even though the ethnobotany project originated in the tribal government, the elders are using it as a vehicle for articulating important concerns about the way things get done. Yet another level of complexity arises from the topic of Cherokee medicine. As stated earlier, this subject has been highly guarded in the past due to its spiritual significance and a history of exploitation. Accordingly, before we explore

²⁵ Because of the ratification of the 1999 constitution in 2003, Smith was allowed to begin his tenure clock for a maximum of two terms after his reelection that year. Smith was reelected again in 2007, and will finish his third consecutive term as principle chief in 2011.

anything further, a discussion of the social world of Cherokee medicine is warranted in the next chapter.

Chapter Two:

Contextualizing Cherokee Environmental Knowledge

“You see, it’s like approaching a wolf,” he said. “You have to get them to come to you.” This was the advice a friend gave me in a conversation about how best to breach the topic of plant medicine with elders.¹ He is, in fact, an elder himself, and currently is involved closely with the elders group mentioned in the introduction (although this conversation took place three months before the first group meeting). We had been driving rural dirt roads in Adair County, stopping along the way to observe and discuss the plants growing on the roadside, and often venturing into the woods as he saw more familiar plants that he wanted to show me. I had subtly expressed my frustration about how difficult it was to get people to participate in the project due to the taboos surrounding Cherokee medicinal plant knowledge. At the time, he was one of the few who had faith in our goals, and was willing to take time out of his day to drive around and teach me about what he knew. His advice that day hinted at the cultural protocol of indirectness that permeates much of Cherokee social interactions. Simultaneously, it spoke to the care with which one must carry out a project of this sort. In theory, one must not only approach a wolf with caution, respect, and indirect behavior, but, if successful in getting the wolf to come to you, one must also maintain the trust that has been given. One false move and it can never be obtained again.

During the course of my work on the project, I had been told by some peers that “you just don’t talk about medicine.” This statement seemed to close off the topic in a knee-jerk reaction to cultural taboo. But I persisted in inquiring about plant medicine, perhaps out of stubbornness, but also out of the belief that if done the right way – with respect and caution – I could generate a meaningful conversation about this hugely significant part of Cherokee culture that is fading rapidly. Working for the tribal government made it harder, but this is another area in which I decided to persist. I had been advised by many observers to take the project out of the government if I wanted it to thrive. But as much as this was a valuable suggestion, I was dismayed by the opportunity that would be lost. With a project like this one – inherently tied to the Cherokee Nation’s environmental programs – we had the chance to engage with this issue and change things for the better, rather than take for granted the current situation and ignore the deeper problems.

As such, this chapter discusses the cultural and historical significance of Cherokee medicinal plant knowledge, and, therefore, what exactly it means to “do” ethnobotany in the Cherokee Nation today. As I stated in the introduction, the paradox surrounding this work was that although people wanted to see this knowledge revitalized, many of them had reasons for not talking about it. This chapter attempts to give the reader an idea of the sources of those reasons.

First I provide a brief history of Cherokee environmental knowledge in the west. Removal from ancestral homelands created the need to learn about new (but familiar) landscapes. I then discuss some historical and ethnographic literature on Cherokee plant lore,

¹ I do acknowledge the slippery ground here in referring to elders as wolves, and thus potentially conveying cliché (likening Indians to mysterious and majestic creatures), or, even worse, diminutiveness (relegating Indians to a “lesser” status of animals). However, I will stress that these are the words of an elder himself, and further, that because of the Cherokee reverence of wolves (demonstrated in one of the seven clans – the wolf clan), this reference would be seen as a compliment to many Cherokees.

including its place in the larger realm of Cherokee healing practices and beliefs, and the controversy surrounding its publication. Next I give a description of some contemporary Oklahoma Cherokee perspectives of medico-spiritual knowledge, including its structure, how it is acquired, and what it means to “have” this knowledge. Lastly, I bring in a discussion on the process of carrying out an ethnobotanical project (at least how I experienced it) in this broader cultural and social context.

Coming to a (Not So) New Land

The Cherokee homelands spanned five eco-regions in the southeast, including the mountainous Central and Southwestern Appalachians, Blue Ridge, and Ridge and Valley regions, as well as the hilly Piedmont region. The regions include three ecosystem provinces: the Eastern Broadleaf Forest (Oceanic) Province, the Central Appalachian Broadleaf Forest / Coniferous Forest / Meadow Province, and the Southeastern Mixed Forest Province. This wide-ranging area is characterized by mixed oak-pine woodlands in the lower elevations, hardwood forests of birch, beech, maple, elm, red oak, and basswood (with some hemlock and white pine) in the mid-elevations, and spruce-fir forests and meadows found on the highest peaks (up to 6,684 feet) of the Allegheny and Great Smoky Mountains. Precipitation is abundant in this area, averaging 40-60 inches per year, and the climate is temperate, with four distinct seasons. Overall, the Cherokee homelands are a lush area, with plentiful over- and under-story plant species, and a variety of typical North American fauna (Bailey 1995).

The Cherokee lands west of the Mississippi are in many ways similar to the homelands, but retain some distinct characteristics of their own (Hewes 1978: 15). The eastern part of the territory includes the westernmost portion of the Ozark Highlands and Boston Mountains eco-regions, which provide the familiar hills and valleys of the homelands. This area is also characterized by broadleaf deciduous forests, encompassed by the Ozark Broadleaf Forest / Meadow Province and the Eastern Broadleaf Forest (Continental) Province (Bailey 1995). Yet, while there are many common species of vegetation between the two areas, the forests in the west are notably less luxuriant (Hewes 1978: 15). The western Ozark forests receive less annual precipitation, and are mainly composed of drought resistant oak-hickory woodlands with intermittent stands of pine. Moving further west, the terrain becomes mostly prairie flatlands, located in the Central Irregular Plains eco-region and the Prairie Parkland (Temperate) Province (Bailey 1995). Overall, the area that makes up the homelands is vaster and more diverse, with higher elevations and a wider range of eco-regions represented (see Figure 2.1).

Regarding the early settlement of the new lands, geographer Leslie Hewes notes that, although it was certainly not home, many Cherokees did not view the region as poor country (1978: 16). The hilly eastern portion of the new lands is where the majority of Cherokees first settled, and the combination of “small areas of productive soil, open woods, small prairies, and abundant sources of water” made for quite hospitable land according to Cherokee aesthetics and lifestyle (ibid.) (see Figure 2.2). Many families made their homes in the valleys (or “hollows”), but with proximity to flowing water for streamside farming, and wild game was generally abundant throughout. The western parts of the new lands, however, were slow to be settled. The expansive prairies were unfamiliar and inhospitable. Wood and water were harder to find than in the forested eastern areas, and the Osage Indians who resided in and around this area were not welcoming to the Cherokee newcomers. In addition, the Trail of Tears had deprived the majority

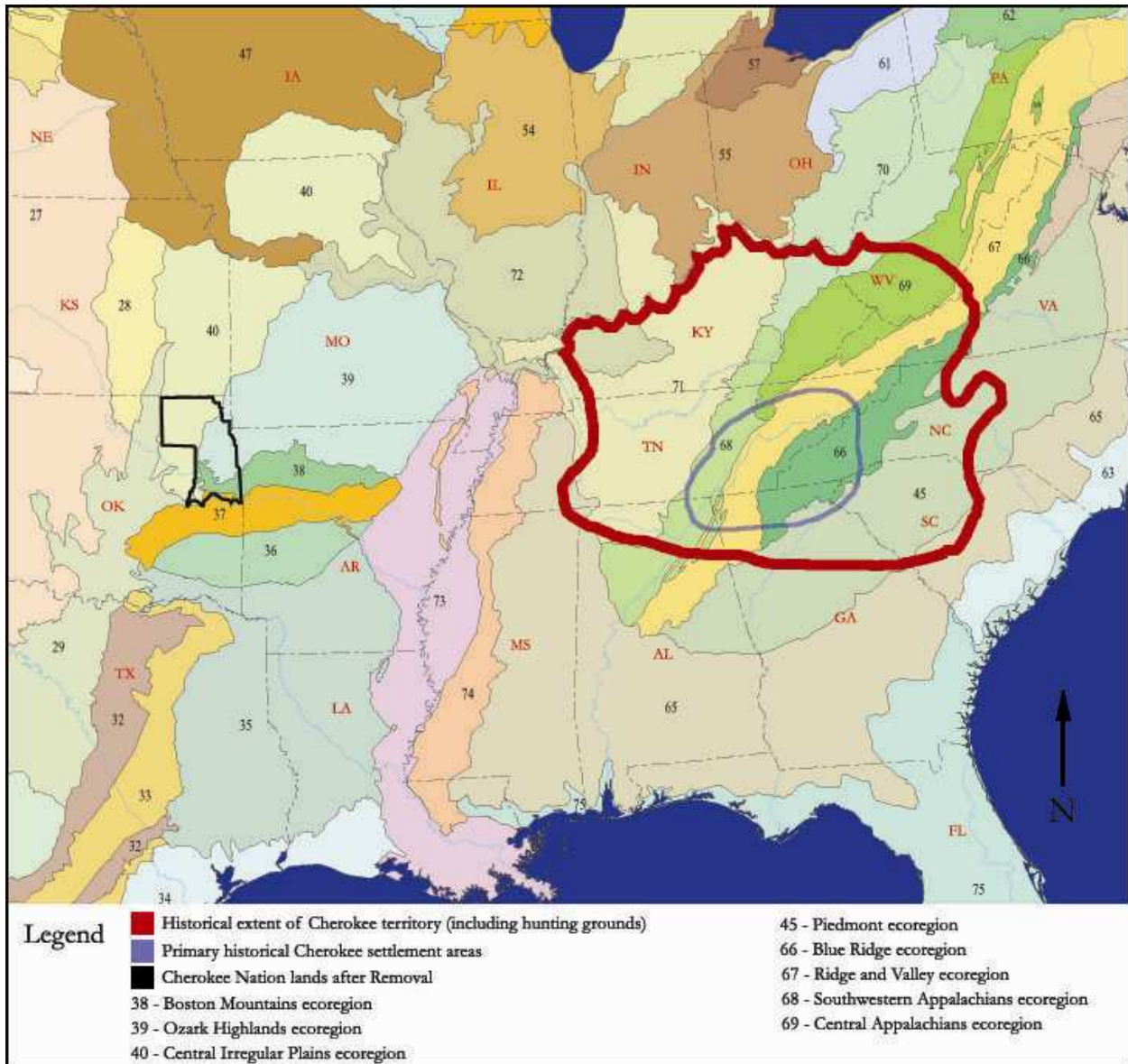


Figure 2.1. Map of eco-regions and Cherokee territories. Adapted from US-EPA (www.epa.gov) and McLoughlin (1986).

of basic necessities, and the contractors who were in charge of disbursing rations were located across the Arkansas border to the east. But even after the nation regained a sense of well-being, the western areas remained sparsely populated until after the Civil War. Hewes states: “The Cherokees left familiar country reluctantly” (18).

Since the late 18th century, Cherokees had come to know the Ozark area well. McLoughlin (1986: 56) claims that the first known Cherokee emigrants to cross the Mississippi did so in 1782 with the permission of the Spanish governor (the area was under Spanish colonial rule at the time). The Chickamauga Cherokee band, under the leadership of Chief John Rogers (formerly led by Chief Dragging Canoe), had begun to settle the area in 1785 after the Treaty of Hopewell (Myers 1997: 133). Further, the depletion of game in the homelands caused by the deerskin trade had led eastern Cherokee hunters to travel into Arkansas territory since 1794. As the population grew with increased emigration from the east, the group became known as the

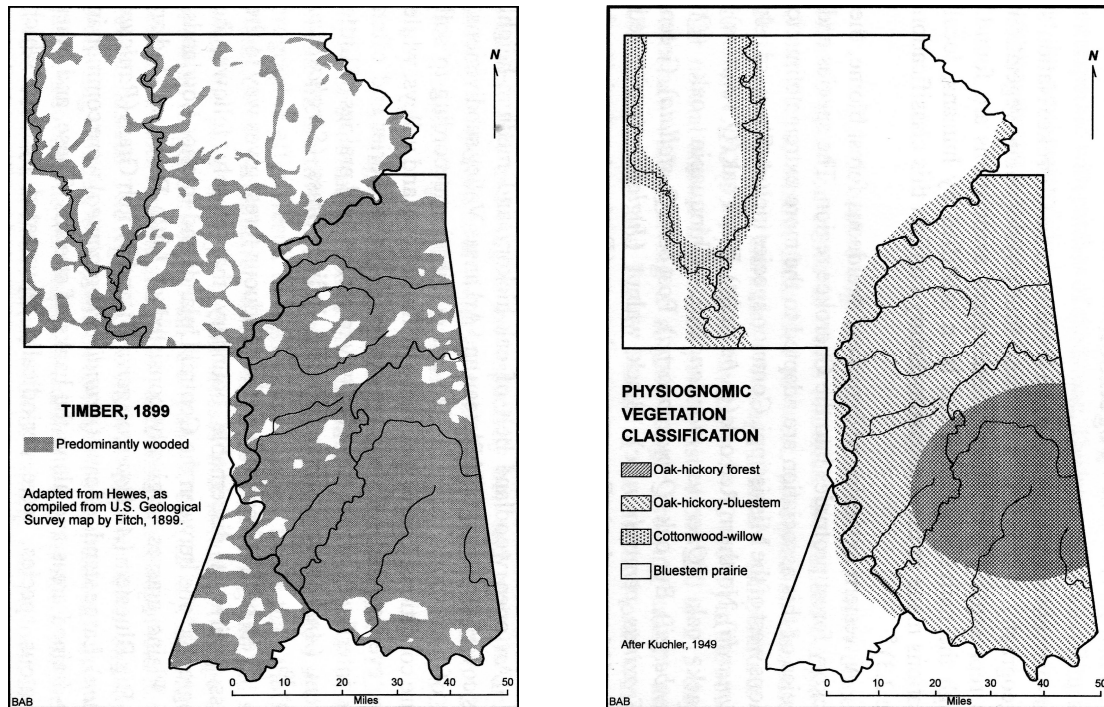


Figure 2.2. Maps detailing timber coverage and physiognomic vegetation of the Cherokee Nation. From Bays (1998).

Western (or Arkansas) Cherokees, and later as the Old Settlers. Because the Old Settlers had no treaty boundaries or protection in the Arkansas territory, they were gradually forced further west, and eventually settled the area that became the Cherokee lands of the Indian Territory.² By the time the Ross party arrived in 1839, Cherokees had inhabited the eco-region for over half a century.³

Their prolonged presence in the Ozark region, combined with the existence of vegetation similar to the homelands, made for a good working knowledge of the environment.⁴ Cherokees

² Jones (2000) claims that oral history from the current descendants of Cherokees who remained in Arkansas (who call themselves the Western Cherokee Nation of Arkansas and Missouri – a non-federally-recognized tribe) indicates an even earlier arrival date of 1721. Jones, a self-proclaimed member of the Western Cherokee Nation of Arkansas and Missouri, further claims that the oral history recounts this date as a *return to* the area, as it is believed that the Cherokees had inhabited the Ozarks in prehistoric times. Although this is an interesting story, and perhaps relevant to ancient migration myths, I have not heard any confirmation of this prehistoric inhabitation in the course of my fieldwork with Oklahoma Cherokees.

³ The early inhabitation of the region was not without conflict from the other Indian tribes residing there. The land was the home of the Quapaws, and much of it was also the hunting ground of the Osages (both are Siouxan tribes). Not surprisingly, the Osages and Quapaws saw the Cherokees as invaders. From 1805-1807, warfare between the Cherokees and Osages / Quapaws erupted over the use and settlement of the territory. The U.S. government attempted to regulate the relations between tribes, but this was mostly unsuccessful. In October of 1818, a treaty between the Old Settlers and the Osages was signed, but the Osages later abandoned the agreement because of the increasing amount of Cherokees and other Indians (relocated Shawnees, Delawares, Oneidas) moving into the area. Warfare between these parties continued until around 1824 (McLoughlin 1986: 263). I will note that such tensions between the Cherokees and the indigenous peoples of the area most likely precluded any exchange of local environmental knowledge.

⁴ McLoughlin (1993: 38) insists that the herbal remedies of the southeast did not grow in the Indian Territory. Indeed, because there is more of a diversity of habitats in the homelands, many plants from the southeast do not

had to use this working knowledge in the initial period after the Trail of Tears (and again after the Civil War) when, for many, survival meant reverting to deerskin clothing and the old skills of fashioning tools and weapons from strictly natural materials (McLoughlin 1993: 35, 234). Of course, Cherokees continued to learn about their new lands, generating new environmental knowledge through the powers of observation and experimentation. On a practical level, healers would have been able to deduce similar medicinal applications for plants that may have been the same genus, but a different species.⁵ In some cases, this process involved extended observation, such as watching how certain animals interacted with specific plants. In other cases, it involved seeking guidance through divination. Some believe that many medicines of the new country were shown to the people through communication with animal spirits, the Little People,⁶ or even God. An account in the Western History Collection at the University of Oklahoma tells of Cherokees receiving medicinal plant knowledge in the new country directly from the Creator:

Mr. John Silk told this story from memory. ... It's a story that took place shortly after the Cherokees arrived in the new territory. And the location of this event is somewhere between Bell Community and [the] Arkansas state line, on one of the peaks, [the] high points. This event came about due to the sickness that was existing in the Cherokee [Nation] in this particular village of the Cherokees after the forced march from North Carolina.

The leaders of this particular village decided that they should try to pray so that they might be able to receive guidance from God. They chose, as I said, one of the highest peaks to perform their rituals. They stretched out a deer skin. Upon the deer skin, they placed their most sacred tobacco, and they did the ritual over the tobacco and the deer skin, and began to smoke their peace pipes and send the white smoke to the heavens. [This was] a message to God; that they were in dire need of his guidance at this time. [Amidst] their turmoil and their problems, the only one they could remember for assistance was God.

After some time of performing their rituals, I would say half of the evening, two hours or so, they began to hear winds, far away winds, as if [a] low thunder and tornado was coming their way. But [the sound] was so far away that it was [hard] to think that they were going to get anything that night. To their surprise, the noise grew louder and louder, and seemingly [it came] closer and closer to them. They did not see a thing, but just before the noise was about to fall upon them, silence fell over the atmosphere, and then a voice from the air asked the people: "What do you want? What may I do for you?"

[They said,] "We have asked for you because there's sickness in our village, lack of food, the children, the orphan children, are crying for their mother, their father, and all [in] all we

grow in what is currently northeastern Oklahoma. However, McLoughlin overlooks many similar species that do exist between the two regions. Although I have not done a comprehensive survey, in the course of my research I have found numerous examples of this.

⁵ For instance, Baldwin's Ironweed (*Vernonia baldwinii*) grows in the west but not the east. Another Ironweed species, Broadleaf Ironweed (*Vernonia glauca*) grows in the east but not the west. Both can be used to treat fevers and colds.

⁶ The Little People (*yunwi tsunsdi* in the Cherokee language) are a mysterious small race of people who are prevalent in the Cherokee belief system and oral tradition (similar to many North American tribes and other traditional societies around the world). They often appear in the form of helpers, but have also been known to lead people astray in the woods. Regardless, they are always referred to with the utmost respect and caution.

are [experiencing] the most difficult times of our lives. For this, we ask you for guidance.” This was the answer that the Cherokee people, the medicine men, gave to the voice in the air.

The voice in the air then returned their answer, and said, “All you have to do is look at the earth, look at the trees, look at the grass, and all of the plants that I have placed upon this planet. You will find the medicine if you will look. Again I will repeat, look to the earth, look to the grass and trees, and all the plants I have placed on this planet. You will find your medicine there.” This was the answer that God gave to his people. And the answer that Indian people are following today – not Indian people in one location, but Indian people all throughout the Cherokee Nation. (Silk 1967)

To clarify, an alternate version of the same story ends with the line: “Then the seven wise men went back to the people. They could see medicine everywhere they looked, all along the way,” thus implying that they had received the knowledge of specific medicinal plants through a divine act (Spade and Walker 1966: 10-13).

Another mystical story about the origins of plant knowledge in the west is one of prophecy. The story recounts how a group of medicine men, having prophesized the forced removal of the Cherokees, traveled to the lands west of the Mississippi long before removal ever took place. On this journey, they transported cherished medicinal plants from the east in order to distribute them throughout the new country. To this day, some credit the existence of many important herbs in northeastern Oklahoma to the actions of these prophetic wise men (Vanbuskirk and Vanbuskirk 2000). One such plant is American ginseng (*Panax quinquefolius*), a mysterious and controversial plant due to its numerous medicinal properties and its high market value. The demand for American ginseng (mainly from China, where it is believed to compliment the Asian variety of the plant) since the early 1800s has caused its near depletion in the forests of the southeast (Johannsen 2006; Taylor 2006).⁷ To Cherokees, the plant has a sacred status as a “cure-all,” and is perhaps the most important ingredient in medicinal formulas. Although its presence in northeastern Oklahoma (both historical and current) is highly doubted by botanists, Cherokees maintain that it was once plentiful in certain areas. Still today some claim to know where it grows, but it is extremely hard to find.

Whether through observation, experimentation, divination, or prophecy, Cherokees developed intricate knowledge of the new environment. They thus made the hills of the western Ozarks *home*, and the stories above illuminate this process. Regardless of which story is “true” (they could all be), they serve to explain the process of developing a new connection to place. The divination story (Silk 1967) differs significantly from the more familiar “Origin of Disease and Medicine,” as recorded by anthropologist James Mooney with the eastern Cherokees in the late 1800s (Mooney 1900: 250-252).⁸ Although the version recorded by Mooney is still referenced by contemporary Oklahoma Cherokee storytellers, the new story is meant to fit the

⁷ Today, a pound of 25-year-old roots can be sold for up to \$1,500 (Taylor 2006: 14).

⁸ The older version that Mooney recorded is a tale of revenge by the animals against the human beings. The people had been killing and harassing the animals to the point where the animals decided to hold a council meeting on how to retaliate. After much deliberation, it was decided that they would create diseases to punish the human beings for their lack of respect. In defense of the humans, the plants offered themselves as medicines to cure each of the diseases created by the animals. In addition to learning the cures, the humans learned to respect the power of the animal world. In order to avoid disease from a vengeful animal spirit, they learned to leave offerings and recite the proper prayers as thanks for the animal giving its life in order for the people to survive.

historical experiences of the new land. Whereas Cherokees likely had a working knowledge of the flora of the western Ozarks (again, many species were similar, if not identical), receiving such knowledge from the Creator imbues it with special significance. Telling the story acknowledges this gift and the Creator's blessing of the Cherokees' new home. Transporting "roots" could be read in a similar light: metaphorically, roots are the stuff of cultural or social grounding in a place. Transporting roots not only established important medicines, it established a cultural connection to the land. Through these stories, the western Ozarks became a Cherokee "cultural landscape" (see Stoffle et al. 1997). Cherokees have maintained this cultural landscape, and to this day, the northeastern Oklahoma hills are an important marker of identity.

Historical and Ethnographic Accounts of Cherokee Plant Lore

The use of medicinal plants has long been a major component of Cherokee culture, and it is a subject imbued with deep spirituality. Mooney states:

The vegetable kingdom ... holds a far more important place in the mythology and ceremonial of the [Cherokees] than it does among the Indians of the treeless plains and arid sage deserts of the West, most of the beliefs and customs in this connection centering around the practice of medicine, as expounded by the priests and doctors in every settlement. (Mooney 1900: 420)

Consequently, the vast subject of Cherokee medicinal plant lore has received much study, most notably by Mooney himself (Mooney 1891; Mooney and Olbrechts 1932).⁹ Since Mooney's time, most of the work on this subject has been with the Eastern Band of Cherokees (Banks 2004; Cozzo 2004; Garrett 2003; Hall 2006; Hamel and Chiltoskey 1975; Witthoft 1947; 1960). But despite this substantial body of work, ethnobotanical studies in the Cherokees Nation (i.e., northeastern Oklahoma) are few and far between. The materials that do exist are mostly small, locally-published works (Cochran 1983; Cowan 1975).

Although Mooney collected large amounts of ethnobotanical data, the majority of this material actually went unpublished.¹⁰ Moreover, his published materials on the subject, *Sacred Formulas of the Cherokee* (1891) and *The Swimmer Manuscript* (1932),¹¹ have been described as only "peripheral" ethnobotany (Hall 2006: 20) due to their emphasis on Cherokee healing incantations, or *idi:gawésdi*.¹² Subsequently, these incantations, and the cultural practices and beliefs surrounding them, have attracted important scholarship (Fogelson 1975; 1980; Kilpatrick 1997). Studies of these "sacred formulas" reveal the wider world of Cherokee medico-magical

⁹ The work of Cherokee physician Richard Foreman (1857) represents an earlier, less-referenced account, although it lacks the academic scrutiny of Mooney. Various sketches of Cherokee plant knowledge from pre-Removal times (before 1838) are included in the writings of John Timberlake, William Bartram, John Haywood, James Adair, John Lawson, and John Howard Payne.

¹⁰ Recently, Cozzo (2004) carried out a secondary data analysis of Mooney's extensive unpublished notes on the subject. Cozzo reconstructs an elaborate Cherokee botanical classification system based on this work.

¹¹ *The Swimmer Manuscript* was revived and completed by anthropologist Franz Olbrechts after Mooney's death. Olbrechts adds his own ethnographic work with the eastern Cherokees, and provides supplemental data to Mooney's manuscript.

¹² The literal translation is "to be said, they." This is the Cherokee term for medical or magical texts. The singular form is *i:gawé:sdi* (Kilpatrick and Kilpatrick 1970: 86).

beliefs, and illuminate a philosophy of healing that includes the use of plants, but also encompasses the spiritual and “supernatural” realms of conjuring, divination, witchcraft, and love medicine.

Fogelson (1975: 113) highlights that in the old Cherokee belief system, death or disease was rarely thought to be a product of accidental or natural causes. Returning to Mooney’s recorded version of the “Origin of Disease and Medicine” (see note 8), the Cherokee concept of healing originated as a response to vengeful attacks against humans who had wronged other beings, whether advertently or inadvertently. Although the beings in the story comprise the “animal clans,” the belief system included a significant role for human beings in the instigation of disease and death. “Man-killers,” or *anididá:hnese:sgi*,¹³ occupied one such role, and were generally thought of as benevolent members of the community who nevertheless had the ability to retaliate through preternatural means when they had been wronged or insulted (Mooney and Olbrechts 1932: 29). Occupying another point on the spectrum were witches, or *anitsgili*, who are to this day believed to be humans (male or female) that intentionally do harm to others out of purely malevolent intentions. Fogelson characterizes *anitsgili*, or “night-walkers” (*svnoyi anida:i*) as community parasites – “irredeemable beings whose true existence falls outside the realm of humanity” (1975: 119). “Conjurors,” as they were known in the past, served to counteract harmful spirits and witchcraft through the use of specialized knowledge, spiritual ability, and, of course, *idi:gawésdi*. Today, this role is occupied by medicine people, or healers (*anidida:hmvwi:sgi*), who, although they do not commonly refer to themselves as “conjurors,” may still claim to employ the act of “conjuring” to heal their patients. Wild plants can help in this process, but they are not always the central focus in healing rituals. Other spirits, including helpful animal spirits, are often called upon for their abilities to counteract a particular ailment.

Although strict ethnobotanical work among Oklahoma Cherokees is lacking, the study of *idi:gawésdi* in the Cherokee Nation has been given much attention by Cherokee researchers Jack and Anna Kilpatrick.¹⁴ A married team, the Kilpatricks collected a vast amount of Cherokee oral stories and written documents in the 1960s (Kilpatrick and Kilpatrick 1964; 1965a; 1965b; 1967; 1970). Much of this material pertained to medical texts, including many private notebooks of individual healers written in the Sequoyan syllabary.¹⁵ The Kilpatricks’ publications of these materials (1965b; 1967; 1970) provided translations and explanations of the texts, including the scientific names of any plants mentioned therein. More recently, their son, Alan Kilpatrick (1997) published a comprehensive account of Oklahoma Cherokee witchcraft and “sorcery” using his late parents’ notes and his own further research on the subject.

¹³ To my knowledge, the term “man-killer” has multiple connotations. Some translate the term as an historical war title like “major” or “captain” (in this case, *anisgaya:dihi* – literally “killer of men”) (Mankiller and Wallis 1993: 3). It is also a surname made famous by the late former Principal Chief of the Cherokee Nation, Wilma Mankiller. As it is used by Mooney and Olbrechts (1932: 33) (written above as *didá:hnese:sgi*), it is more accurately translated as “putter-in and drawer-out of them, he” (Fogelson 1975: 123). In his description of the term, Olbrechts (in Mooney and Olbrechts 1932: 29) seems to suggest that this belief served as a general cautionary rule to be nice to one’s neighbor (for one did not always know the identity of “man-killers”).

¹⁴ Both Jack and Anna Kilpatrick grew up in the Cherokee Nation and spoke the language fluently.

¹⁵ The significance of the Cherokee written language (Sequoyah’s syllabary, completed in 1821) cannot be overstated. The ability to write in the language revolutionized the practice of Cherokee medicine (Fogelson 1980: 61-62). Using the syllabary, healers could write out healing formulas in order to aid their memory. Altman and Belt (2009: 11) state: “The formula book of any one healer often contained his or her complete repertoire of words and actions designed to care for his or her patients. The notebooks were kept over the span of the healer’s practice and some contained dozens of formulas.”

While the Kilpatricks' efforts have preserved a wealth of Cherokee cultural knowledge (one could view the primary documents as the foundation of a Cherokee national literature),¹⁶ many Cherokees were upset by the publication of these materials – “sacred” as they are. The adverse reaction largely concerned the Kilpatricks' bold act of making available this knowledge to anyone wishing to read it. Albert Wahrhaftig foretold of the impending controversy in a review of their first volume of formulas published entirely in English (Kilpatrick and Kilpatrick 1965b). With regard to the fact that this volume is a collection of love incantations (used to attract and seduce), Wahrhaftig states, “To have reproduced these texts in the Sequoyah syllabary, or in transcription with literal interlineal translation as some scholars might demand, would certainly have created a panic among nubile Cherokees and consternation among their parents, for indiscriminate use of this medicine is a serious matter” (Wahrhaftig 1966a). Perhaps to the surprise of many, the Kilpatricks' later publication of *Notebook of a Cherokee Shaman* (1970) was indeed a transcription with literal interlineal translation (much like Mooney's publications). The subject matter of this work includes the more severe topics of medicine and witchcraft. Although the authors maintained that the formulas were “dead” well before publication (p. 85), other accounts have suggested otherwise, claiming that the *idi:gawésdi* still possess some of their magical powers, and are therefore dangerous if used by someone with improper intent (Conley 2005: 38).

Altman and Belt (2009), on the other hand, state that the act of publishing the formulas is what “neutralized” them, and suggest that this in itself was disrespectful (Mooney's publications are included in their criticism). They write: “[T]ranslating or diverging from the proper use of the language for healing is considered [by Cherokee traditionalists] an act of profanity” (12). Another account voiced the concern about the elder Kilpatricks profiting from this activity, saying that the medicine would eventually come back to harm those who mistreat it by “using [the formulas] to make money for themselves” (Mails 1992: 292).¹⁷ Alluding to their untimely deaths, the informant said, “They were not capable of handling all the power that goes with such knowledge” (ibid.). The bitterness towards the Kilpatricks' work lingers today among Cherokees in northeastern Oklahoma. This sentiment was repeatedly expressed to me in the course of my fieldwork through both indirect references and direct comments. Although many of the claims have been conflated to the point of hyperbole, the controversy around the improper divulging of medico-spiritual knowledge remains salient.

Yet, despite its controversy, the elder Kilpatricks' work has proven helpful on multiple accounts in the course of our efforts on the ethnobotanical project. In their translation and analysis of each incantation, the authors meticulously list minute details, including the scientific names of any plants mentioned. This information has helped to solve some mysteries (and confirm some educated guesses) regarding the identification of medicinal plants referenced by elders. Often practitioners of Cherokee medicine are more familiar with the Cherokee or common names of the plants they use, and because certain plants are becoming ever scarce, it is hard to find specimens to identify. With the context and detail that the Kilpatricks provide, we

¹⁶ Alan Kilpatrick (1997: xviii) recounts his father's words: “A few months before my father's death in 1967 he wrote this note: ‘Recently I read in the *Encyclopedia Britannica* that no Native American society north of Mexico had produced a literature: yet during the past five years alone I have collected from attics, barns, caves, and jars buried in the ground some ten thousand poetical texts, many of which would excite the envy of a Hafiz or a Li Tai Po.’”

¹⁷ As academics, I do not think any substantial “profit” would have been gained from their publications. However, I think the comment expresses the concern that they were benefiting from the formulas by building a career based on the publication of them.

have been able to correctly identify some of these rare plants and target them for conservation. On another level, their work provides, through its own “peripheral” ethnobotany, documented contemporary instances of the adaptation of environmental knowledge. One occasion of this deals with the substitution of a rare and potent plant of the east for another rare and potent plant of the west (Kilpatrick and Kilpatrick 1967: 87-88). Since the original plant cannot grow in Oklahoma, Cherokees recognized the efficacy of an alternate, native plant in performing the same functions.¹⁸ As Fogelson (1975: 116) points out, the Kilpatricks’ work in Oklahoma “is especially crucial in revealing continuities and changes in belief structure as the Western Cherokees adapted to a new ecological and social situation.”

Contemporary Oklahoma Cherokee Attitudes towards Medicine

Cherokees today continue to view medicine in a range of contexts, as reflected in the multifarious applications of *idi:gawésdi* presented by Mooney, Fogelson, and the Kilpatricks. As such, medicine concerns not just physical illness, but also mental and spiritual well-being, including the well-being of one’s relationships.¹⁹ Furthermore, the physical “stuff” of medicine includes more than just plants. To many Cherokees, stones, soil, water, animals, insects, and plants all have “medicine.” As Cherokee spiritualists and healers say, this medicine is identified as the *spirit* that runs through all Creation, and it was put there by the Creator himself.²⁰ Identifying this spirit in a plant or a particular mineral (a stone or crystal) and communicating with it allows the healer to use these material substances to cure injuries and sicknesses. Thus, to Cherokee healers, “medicine” is also a philosophy, or a particular way of seeing the world. Included in this philosophy is keeping a “good mind” (in Cherokee, *duyukdv*).²¹ The practice of medicine begins with maintaining a positive outlook on everything, without any negative forethought. Just as the plants and minerals were given a spirit by the Creator, so were human beings – each person has this spirit within. As I was told by a prominent healer, recognizing this common spirit throughout all Creation is the first step in understanding Cherokee medicine.²²

In the cases where plants *are* employed in healing, many healers emphasize the importance of matching specific plants with a person’s spirit; hence there are different medicines for each patient. This applies to individual specimens, not just particular species. Thus, one must

¹⁸ The Cherokee name for the eastern plant is *yú:gwil*. There are actually two original *yú:gwil* plants: Venus’ flytrap (*Dionaea muscipula*) and pitcher plant (*Sarracenia purpurea*), neither of which are found in the western Ozarks. Adam-and-Eve plant (*Aplectrum hyemale*, or *Adawi-iwi* in Cherokee), a rare but native plant to the western Ozarks, became the substitute. The roots of these plants possess the ability to be “remade” (prayed over using the proper incantations) in order to bring out special powers that aid the owner in extraordinary ways. (Kilpatrick and Kilpatrick 1967: 87-88)

¹⁹ For instance, it is still common for a medicine person to be approached by a patient as a relationship counselor, however reluctantly the healer may take up this responsibility.

²⁰ In English, Cherokees usually refer to the Creator in the masculine form. However, in the Cherokee language, the word for Creator, *Unehlvnyhi*, does not specify masculinity or femininity.

²¹ Pronounced “doo-YOOK-duh.” See Fogelson (1975: 126).

²² Field notes, October 16, 2008. I should note that this section is not intended to give an exhaustive description of the Cherokee philosophy of medicine. Elaborate descriptions of Cherokee beliefs regarding disease and medicine are provided by Mooney (1891) and Mooney and Olbrechts (1932), some aspects of which have been retained by contemporary Oklahoma Cherokee healers. This section takes this work for granted, and its purpose is rather to highlight areas of thought and practice (received first-hand from fieldwork) that broadly demonstrate current attitudes toward medicine and relationships toward the environment.

not only find the right species of plant to cure the particular ailment of a particular individual, but one must find the specific plant that offers its spirit to the healer *for that purpose*. This illuminates that often the chemical or biological makeup of a plant used in healing is only one aspect of the Cherokee view of plant-based medicine. That a plant's physical substance will interact chemically with the human body and help in some way could be seen as "level one" of this perspective. Often, botanical analyses of these plants show that the remedies are well-founded, such as the astringent properties of elderberry (*koksūk*, or *Sambucus nigra*) leaves, or the suppressant qualities of a mixture of hickory bark (*wanēi*, or *Carya spp.*) and wild cherry bark (*gitāya*, or *Prunus virginiana*) (e.g., for hacking cough).

"Level two" of this perspective assumes the spiritual foundation of Cherokee medicine – that the spirit of the plant is what aids in healing, and one must communicate with that spirit in order for the medicine to work. Just as often, anthropologists have found that the presumed healing qualities of plants used in Cherokee medicine have no "scientific" basis with regard to chemical composition. This was documented numerous times in Mooney and Olbrecht's work, and they consequently disregard such remedies as "matter[s] of coincidence and chance" (writing in the typical fashion of early anthropologists) (1932: 53). Yet, such plant medicines that contain no active chemical compounds are understood to do their work through "the spirit," which, for many Cherokees, is just as effective. This distinction between "levels" is not necessarily an inherent facet of Cherokee ethnobotanical knowledge; it is only intended to display, from a Western perspective, some of its dimensions. Most Cherokees who practice plant-based medicine (even the "laity") believe that spirituality is inseparable from any form of healing.

From a more emic perspective, a friend and elder once described the structure of Cherokee medicinal knowledge as comprising four separate (but interconnected) strata, or fields (demonstrated by my own representation in Figure 2.3). In this depiction, each successive field of knowledge encapsulates a more complex and spiritual realm, with the smaller the circle and the darker the shade of blue signifying the more specialized and less-accessible knowledge.

The first or baseline field is considered common Cherokee knowledge, and is transmitted mainly by older family members during childhood. This type of knowledge is useful for extended excursions into the woods (e.g., when exploring as children, or, later in life, while out hunting and/or fishing). For example, in the spring the young shoots of the smooth sumac (*qualōg*, or *Rhus glabra*) can be eaten as a natural "energy bar"; common ragweed (*gūg*, or *Ambrosia artemisiifolia*) will help repel ticks when mashed up and rubbed on one's clothes; and crushed elderberry (*koksūk*, or *Sambucus nigra*) leaves will soothe insect bites. The second field is more specialized knowledge that must be learned from an expert. Individuals who exclusively deal with this type of knowledge may consider themselves "herbalists" rather than medicine people. This level of knowledge is the art of mixing various herbs, barks, or roots, to cure minor ailments like colds and coughs, or scrapes and bruises.

The third field is sacred knowledge that only skilled medicine people are sanctioned to use. Tobacco (*jōla*, or *Nicotiana tabacum*) is considered a sacred plant by the Cherokee, and must be treated with the utmost respect and caution.²³ Traditionally, this plant was not smoked, but used in its dried form for blessings or offerings by sprinkling a small amount into a fire, on

²³ "Old tobacco" (*jōla gayvli*, or *Nicotiana rustica*) is considered a more potent variety of this plant, and was the primary species used in earlier times. Because of its scarcity today, many healers employ the *tabacum* (commercial) variety, although recent cultivation efforts by the Cherokee Nation Natural Resources Department have made available *Nicotiana rustica* for tribal citizens. See Eads (2008) for an interesting study of contemporary tobacco use among Oklahoma Cherokees.

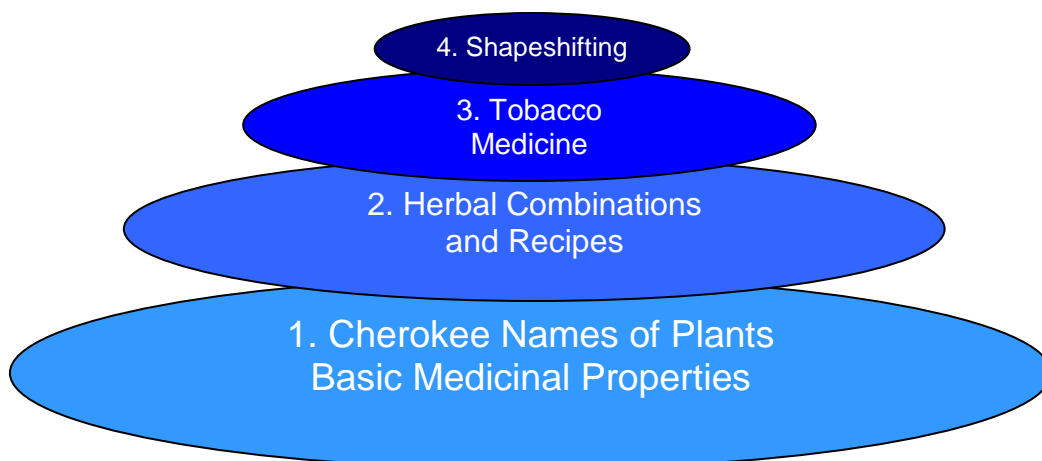


Figure 2.3. “Fields” of Cherokee Medico-Spiritual Knowledge.

the ground, et cetera. This plant can be “fixed” or “remade” by skilled healers for specific remedies that require the right *idi:gawésdi*. This level of knowledge can be dangerous when used inappropriately, potentially causing serious harm to the individual who does not know how to properly handle it. Finally, the fourth field – shapeshifting – is the most specialized and secretive realm of knowledge. This area of knowledge is often associated with witchcraft; however, when performed correctly, it is believed to be an important tool for trained medicine people. This practice involves transforming into animals by spiritual means. In theory, a medicine person may want to check up on a patient, but without driving or walking to their house. Transforming into a small bird may be one way they choose to do this. Individuals who are knowledgeable of the third and fourth fields are understood to have extensive knowledge of all previous fields.

The process of acquiring specialized medicinal knowledge is dictated by many factors. Many believe that those who are born with special characteristics have the highest ability to retain and practice medicinal knowledge. Babies born with a thin veil-like membrane covering their faces (often referred to as a “caul;” babies born with this are said to be “born behind the veil”) and twins are more prone to this disposition. Sometimes medicine people will have visions about to whom to impart their knowledge (Mails 1992: 306). Other, less mystical signs may be simply that a child is attentive and possesses an advanced capability for retaining information. Adults are expected to pay attention to these signs. Often children are inadvertently exposed to the knowledge and thusly take an interest in it. Many practicing medicine people today purport to have absorbed a lot of their knowledge from overhearing the conversations of their parents or grandparents (who may knowingly have been exposing them to this world by not censoring their discussions).²⁴

Some stories recount how individuals who have been chosen by “the spirit” are called back home to help administer medicine to the people. In one case, a young man had left home and traveled all over the country, living in many different places. He ended up in southern California, and, although he had lost touch with the Cherokee community in Oklahoma, he often socialized with other local Indian groups native to the area. One day he was discussing with some California Indian friends how he knew of a way to cook a traditional food in the ground by

²⁴ See also Fogelson (1980) for an in-depth account on the role of medicine people and the acquisition of medicinal knowledge in eastern Cherokee society. This work, although published in 1980, was carried out in the late 1950s.

building a “pit oven.” When asked if he would demonstrate how to do this, he agreed, and the next day he began the process. Yet, when he was done, he began hearing voices telling him to go back home and help his people. The act of preparing traditional food had triggered within him a sense of responsibility to pursue what he was “chosen” for. Later he said that he had been running away from the responsibility of medicine all his life, but that the spirit had found him, and that is why he ultimately moved back home and began his study of medicine.²⁵

The advanced study of traditional medicine comes from apprenticeships, which take years of training if a healer agrees to teach his or her knowledge.²⁶ Further, it is generally expected that even if one has completed an apprenticeship, a person is not ready to practice traditional medicine independently until their hair turns gray and they have a family of their own (Mails 1992: 306). Apprenticeships are commonly kept within the extended family, although this is not a requirement. Gender may play a minor role in terms of knowledge transmission and patient treatment (men may possess knowledge specific to treating men, and the same holds true for women); however, this is not as prevalent as it once was. Throughout history, the majority of Cherokee healers have been men, and this trend continues today. Yet medicine women, although not as prevalent, are just as respected, and have always enjoyed an equal status to that of male practitioners.

Knowledge is central to the practice of medicine, and “gaining knowledge” is an emphasized and complex process. Anthropologist Robert K. Thomas exemplifies the importance placed on viewing the practice of medicine (and more broadly speaking, life) in this way:

Cherokees come to manipulate their fate and the world not through power but through “knowledge”. One cannot acquire power through dreams, one must study for the “priesthood” and learn a general theory and many techniques in order to be powerful. New techniques can be acquired through dreams, such as a new herb, a short formula, or some small ritual. But power, itself, cannot be acquired directly. Cherokees “gain knowledge” as it is said in Cherokee, they do not acquire power. When two medicine men come together they will say, “What do you know?” To say, “He knows a lot,” is a compliment in Cherokee. Knowledge is almost a commodity and one can be called stingy with “what one knows”. And one does not “gain knowledge” just by learning the “medicinal” techniques and formula alone. One can experiment with new herbs or one can gain new insights into purposes of technique by seeing a new relationship between the parts of the general theory or between a technique and another part of the theory. So a man becomes more knowledgeable by experimentation and a kind of “rational” thinking, a very different process from acquiring power. (Thomas 1958: 7-8)

Thus, the adage “knowledge is power” has a literal meaning for Cherokees. In the realm of Cherokee medicine, one could view knowledge as having autonomy as a living thing. This is evinced in the inherent “power” of the written *idi:gawésdi*, and is a main reason for the controversy surrounding the Kilpatrick’s work. As its own entity, knowledge is vulnerable to exploitation. Yet, it has its own agency – when mistreated, or used in an improper way, it can “come back on you” and inflict harm (similar to the Buddhist concept of *karma*).

²⁵ Field notes, July 10, 2008.

²⁶ Again, see Fogelson (1980, esp. pp. 67-69) for accounts of medicine apprenticeships among the Eastern Band in the 1950s.

The loss of Cherokee medicinal knowledge has been lamented since Mooney's time. Yet, while many have noted the decline of this knowledge, it is significant that the practice of Cherokee medicine continues. In the late 1950s, Fogelson remarked:

[O]ne should be hesitant in sounding the death knell for Cherokee conjuring. Mooney, Olbrechts, Bloom, and Witthoft all mourned the passing of eminent practitioners with gloomy predictions of the imminent disappearance of Cherokee medicine and conjuration. Yet somehow, younger men always seem able to take up part of the slack, and today conjuring is far from dead... (Fogelson 1980: 69)

This is largely true today, and I hesitate to describe the current state of Cherokee traditional medicine too dismally. However, from the perspective of the elders group, the status of this knowledge is in poor condition compared to even the recent past. This perspective was illustrated to me as I was sitting with an elder shortly after our first group meeting in October 2008. He drew a large circle in the dirt (about 1 foot in diameter), which represented the entire body of Cherokee plant knowledge (all that has ever been known). Then he drew a very small cut-out of that (less than an inch in diameter) and said it represented what Cherokees know now.

The attrition of such knowledge can be attributed to many factors, including: 1) the influence of the mainstream educational system upon Native youth, followed by a general disinterest in the subject by younger generations; 2) an increasing reliance upon Western medicine; 3) the destruction of ecosystems and important plant species through development activities; and, 4) what Luisa Maffi identifies as the “‘extinction of experience’: the radical loss of the direct contact and hands-on interaction with the surrounding environment that traditionally comes through subsistence and other daily life activities” (Maffi 2001: 7). Hall (2006: 2) also notes how economic factors play a large role due to the amount of time it takes to specialize in this knowledge and the absence of paid apprenticeships. Unlike the old days, becoming a healer – although more demanding than any wage labor – is not a “career option.”

Most Cherokees agree that the principle cause for knowledge loss is not using it. Returning to the concept of knowledge as a living thing, it is understood that the knowledge “dies” when it falls out of use. During our first meeting, a member of the elders group related the situation to the properties of water. Paraphrasing him:

We all know what happens to standing water: it grows algae and becomes dirty – unhealthy to drink. But running water runs clean and clear and purifies the mind and body. So if we all just sit still and do nothing, the knowledge will become like standing water and will not be used. But if we are active and make a difference, we will have health and clarity for the future.²⁷

The analogy of running water is especially fitting because of its significance to Cherokees. Bodies of running water are viewed as living things. A river is referred to as *yv:wi gvnehi:d(a)* (“long person”), in contrast to ponds, which have no inherent life force. Many Cherokees view natural spring water as medicine in itself (to some, it is also necessary for making medicine). According to one elder, the water from a spring contains its own medicine, simply because it passes over so many medicinal roots in the course of its flow to the surface.²⁸

²⁷ Field notes, October 23, 2008.

²⁸ Field notes, July 9, 2008.

In this light, the elder's statement articulated a sense of purpose that bridged Cherokee theory and practice. It also characterizes the new direction the project took as a result of the first elders meeting. In the next section, I go into detail about the process of carrying out such a project in the context of the preceding cultural and historical information.

Doing Ethnobotany in the Cherokee Nation

It is hoped that a clearer picture is beginning to emerge with regard to the depth and significance that Cherokees ascribe to traditional medicine and the use of wild plants. The combination of spirituality and taboo attached to this corpus of knowledge made for a daunting task when I was asked to design and carry out an ethnobotanical project from scratch in 2004. In short, because plant knowledge is associated with medicine, and because medicine is inherently connected to spirituality (and can cross over into witchcraft), people were hesitant to participate. Embedded within this perspective were a number of other concerns, including: 1) the concern that such knowledge could be used for illicit profiteering, 2) the concern that such knowledge could be published, or copyrighted and "owned" by others (i.e., the concern for intellectual property), 3) the concern that if used improperly and unsupervised, such knowledge could lead to harm of others or themselves (this also includes the belief that if medicinal knowledge is improperly divulged, it can "come back to you"), and 4) the fact that Cherokees often guard such knowledge because they feel that it is one of the few cultural possessions yet to be stolen by outsiders. Yet another underlying cause was that in the not-so-distant past, "Indian medicine" was actually ridiculed outside of the community.

As an employee for the Cherokee Nation, an "outsider" (for all intents and purposes – despite my tribal citizenship), and later a university researcher, I potentially represented (at least at first glance) many of the sources of the above concerns. I could accept my position as an outsider, and I knew that because of this I would have work to develop meaningful relationships based on mutual trust. But what I had not anticipated was the level of skepticism towards the tribal government. In fact, I had imagined the project to be much more ethical working for the tribe than for an outside agency that would be potentially subject to the Freedom of Information Act (FOIA). Regardless, the project got off to a slow, but promising, start. The first summer of work culminated with a successful "river trip" – a method I had borrowed from advisors and mentors at the University of Arizona who had worked closely with American Indian people of the Colorado River Corridor, among many others (Stoffle et al. 1997). I had managed to recruit two able-bodied elders (both in their late 50s / early 60s) to accompany myself and three staff members (from the Cherokee Nation Environmental Services Office and the Natural Resources Department) on a rafting trip down the meandering Illinois River. Along the way, we made frequent stops to discuss the plants growing on the banks. The excursion was well-received by the participating elders, and both expressed a willingness to continue their participation.

Over the course of two subsequent summers (2005, 2006), the project gained momentum and I continued to visit communities and explain its purpose and goals. When the opportunity presented itself, I conducted open-ended, informal interviews with elders who would sometimes show me around their homes or family land in order to discuss specific plants. In the meantime, I worked in the office developing a computer database, and researching previous work on Cherokee ethnobotany. Although the work seemed to go slow, I realized that at that point, maintaining an involvement in community life (i.e., just "being there") was much more valuable

than acquiring “information.” Later, in the course of my official dissertation fieldwork, I learned that a man who I thought barely recognized me strongly supported the project because I had “been around a while.” Another man – an influential figure at both the tribal complex and in the communities – described the way that many rural Cherokees figure out whether or not someone is worth talking to as “the code of the hills.” No matter how nice an outsider may seem, information of a sensitive nature is never given until the person who is approached has had a chance to ask other members of the community about them. To other ethnographers, the concept of “building rapport” would seem commonplace – an expected part of carrying out a research project. But I stress this aspect of the process so as to underscore its importance – even (or perhaps especially) when the projects are based in the tribal government.

My initial experience with the project also included issues of racial phenotype. As anthropologist Circe Sturm has shown in her book, *Blood Politics* (2002), race in the Cherokee Nation is, paradoxically, an elusive but pervasive topic. While she demonstrates that in the Cherokee Nation there is more to racial identity than just phenotype, she also finds that phenotypical judgments are commonplace. Such judgments tend to classify a person along a “spectrum of Indianness” (my phrase) in terms of physical appearance. As a light, but olive-skinned “mixed-blood” Cherokee, I have received many such judgments on both sides of the spectrum. I have found that this is often a matter of context – in the course of my fieldwork, the more acquainted I was with an individual from a Cherokee community, the more likely they would say that I “look Cherokee;” conversely, as a stranger, I have often been regarded by community folks as a “white guy.” Regardless, racial phenotype is a very real issue for a project like this, considering the distrust that continues to be harbored by community-based Cherokees against white people generally (Cherokee or not). Thus, when well-meaning light-skinned individuals attempt to discuss sensitive topics like plant knowledge, often outward appearances get in the way. The following situation seems to sum up the overall viewpoint.

One afternoon at the tribal complex, I was having a discussion with my supervisor (Eric, a Cherokee citizen in his 40s who is light-skinned and blonde/blue-eyed) regarding who would be good potential interviewees for the project. He decided to call a friend of his in another department (David, “half” Cherokee, and in his late 30s) to see if his father (a “full-blood”) would be willing to participate. On speaker phone, the conversation went something like this:

Eric: I’ve got this student from Berkeley here – he’s a Cherokee citizen – and we wanted to ask you a question. Say we were trying to talk with some old-timers about their general knowledge of wild plants – do you think your dad would be willing to help us out? Do you think he’d talk to us?

David (doubtfully): He might talk a little, but probably not.

Eric: What about this guy from Berkeley who’s doing most of the interviews? He’s a young guy — do you think he’d talk to him?

David: What does he look like?

Eric: Uh, well, I guess you’d say he looks like a white guy.

David: Well, probably not. See this knowledge is kind of a Native American thing that is passed down through family members.

Eric: And we all know it’s not being passed down anymore.

David (concedingly): Uh, yeah.²⁹

²⁹ Field notes, May 29, 2008.

In another situation, Jack (“half” Cherokee, and in his mid-50s), acknowledged and openly discussed the evolution of his acceptance of me. When I first went to visit him in 2004, he “shut me down” due to the nature of my visit and questions (in this case, “shutting someone down” simply means pretending not to know anything). He said that I had been too forthright, and that I had approached him all wrong. Yet, when I visited him in 2008, he was a different person completely. Not only did he present himself as knowledgeable and willing to share his knowledge, but he gave off a completely different air of intelligence and competence (before he had seemed to play the role of the “backwards hillbilly”). He even offered an apology, and said that he didn’t really mean to be rude – it’s just that he was brought up to behave that way towards intrusive outsiders. I had been perceived this way, even though I don’t remember being pushy. Later he explained that you will never get a response from a Cherokee the first time you ask about something like plant medicine. First of all, you have to ask in a non-intrusive way. Secondly, do not expect a “yes” or a “no” on the spot – the individual will have to “think on it” some. He said that after seeing my face around for a while (and passing me off to other, more “accessible” people), he finally thought that my approach was acceptable. Besides time and persistence, other things that helped when I visited him in 2008 were a referral from another reputable person and being accompanied by a student intern who happened to look more “Indian” than me. When I asked if it was really all about “looks” (i.e., racial phenotype), he said that it was probably 70 per cent looks. There was a slight pause, and then he revised his statement and said that it didn’t have to be all about looks if the approach was right – in that case you could probably change it to be 30 per cent looks and the rest about approach (a complete reversal of percentage!).³⁰

The conversation between David and Eric also highlights one of the paradoxes inherent to doing ethnobotany in the Cherokee Nation: while most everyone realizes that the knowledge is not being passed down as it once was, the tendency to withhold this knowledge remains strong. This tendency goes beyond issues of racial phenotype – the identifiably “Indian” student intern mentioned above recalled that it was difficult to get her own grandmother to speak to her about this topic. Her point of view was that people were just “being stubborn” about it – and this is partly true. In Cherokee society, the high value placed on the knowledge one has “gained” (as elaborated by Robert Thomas above), combined with the history of exploitation, has created a cultural system wherein knowledge is indeed a commodity – as Thomas writes, “one can be stingy with what one knows.” One prominent healer described how recently he was being approached by many people (not associated with this project) who wanted to acquire his knowledge “like they’re going to Wal-Mart.” Yet, while one aspect of this cultural system is changing (knowledge transmission), Cherokees are realizing that they must find ways to adjust the rest of the system in order to keep the knowledge alive. One of these adjustments involves, under the right conditions, the willingness to speak openly about the subject.

The elders group has taken the first step in this direction. As stated in the introduction, the first meeting was coordinated with the hopes of bringing together the individuals I had been visiting separately in the course of my work on the project. Since that time, the group has continued to meet frequently (at the time of writing, we have had seven meetings). The meetings involve a mixture of socializing, story-telling, sharing plant knowledge, and discussing the organization and goals of the group. A significant accomplishment has been the publication of a small booklet, entitled *Wild Plants of the Cherokee Nation* (Figure 2.4). The booklet was requested by the group as a way to promote the revitalization of Cherokee ethnobotanical

³⁰ Field notes, August 22, 2008.

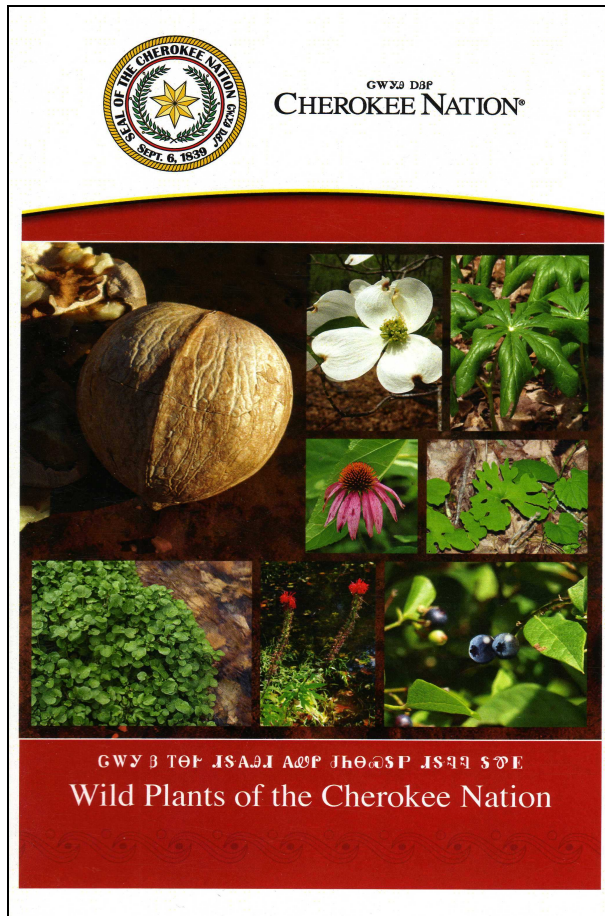


Figure 2.4. Wild Plants of the Cherokee Nation booklet

knowledge. In its first printing, it contains descriptions of 18 plants, along with “first tier” Cherokee ethnobotanical knowledge (refer back to Figure 2.3). Publishing baseline knowledge was approved as a way to reinvigorate people’s interest in the subject, and to highlight the efforts of the group in “starting the conversation.” Although the group fully supports the booklet, it contains no names. The elders requested this so as to maintain a level of humility about the initiative. In this way, no one associated with the project can be viewed as seeking personal gain or enhancing their reputation. Currently, the booklet has been translated entirely into the Cherokee syllabary, and a second edition is in the works with over 100 plants listed (including fungi and cultivated heirloom crops). The booklet is provided free for Cherokee citizens.

As for the knowledge represented in the booklet, one elder remarked, “It’s just enough information to keep it interesting.” The significance of the publication is not lost on the group – they all realize that it is a step taken in overcoming the taboo of widely distributing this knowledge. That this is being done under the supervision of an elders “council” is what makes it different. While everyone understands the potential risks of publishing this information, they all agreed that any time something is put “out there,” it runs the risk of being used for unintended purposes. In response to this, one elder asserted that if someone tries to “get rich” off the booklet, it (the medicine) will come back to them, and they will soon find themselves broke. With regards to the medicinal applications of the plants listed, the group feels that because the spiritual details (i.e., the prayers and/or *idi:gawésdi*) are not listed, many of the remedies will not work. This, in

itself, “protects” the knowledge from exploitation. Such beliefs in the nature of this knowledge have maintained a sense of confidence in the group’s efforts.

The plant booklet, although an important step, is only one component of the overall strategy of the group. Central to our discussions has been the acquisition and retention of a plot of land (at least 500 acres) from which to carry out the group’s objectives. Such objectives entail the development of a tribal program for traditional medicine. Group members have proposed “managing” a plot of land for the maintenance of traditional medicines, as well as building a storeroom for dried medicinal plants to act as a tribal herbal medicine reservoir for local Cherokees. The idea is to provide access to these resources for people who either can’t physically get out in the woods to gather them, or for those who don’t know what to look for. Such a program would encourage education on this subject for adults and youth alike. The approach is to foster future generations of practitioners.

Yet the group’s efforts are not without obstacles. For one, the urgency of the initiative is often hindered by the Cherokee tendency to move slowly and with deliberation on important issues. The work is time-sensitive, as many elders today are from a generation that has reached its zenith. The recent death of one member of the group was a stark reminder of this. Some members of the group feel that recording the knowledge for preservation’s sake should come before the development of a long-term program, simply because of the lack of time. Thus, the group is finding it difficult to reconcile the larger spiritual aspect of the knowledge with the practicalities of the times. Other obstacles are more organizational. For example, the process of institutionalizing the group has been a source of concern. Some feel that the group needs a sense of permanency, and thus should be formally recognized by the Cherokee Nation tribal council. This raises issues of incorporation and autonomy, which lead to discussions of bylaws, et cetera – formalized mechanisms that may or may not be conducive to the group’s goals. But this is another topic altogether – I will return to these issues later in chapter 4, where I resume with an analysis of the group *as an institution*. For now, I will take up a discussion on the nature of land and resources in the Cherokee Nation, which follows in the next chapter.

Chapter Three

Environmental History and Political Ecology in the Cherokee Nation

Stories of environmental change – whether implicitly or explicitly – are often stories of changes in human interaction with the environment. Significant accounts of environmental change have involved competition between differing ideals of the human relationship with the non-human world (see e.g., Cronon 1983; Merchant 1989). Whereas “cultural landscapes” are often associated with how a cultural group “sees” the landscape and imbues it with meaning (for instance, the Cherokee connection to the western Ozarks and Boston Mountains),¹ the term “normative landscape” seeks to explain how a group views the landscape in terms of its utilitarian and aesthetic value. The clashing of two or more normative landscapes in the context of unequal relations of power (e.g., colonialism) often leads to profound ecological change. As Huntsinger and McCaffrey write concerning the indigenous Yurok environment (northwestern California):

Natural resource management shapes an environment in accordance with the norms and expectations of the manager. A landscape is manipulated biologically to produce certain goods and services, creating, in the process, what might be termed a normative landscape. The ecological changes resulting from a shift in management regimes constitute the imprint of a change in social relations; one group’s normative landscape is supplanted by that of an ascendant group. Along with the military conquest of the Yurok people, the United States, through the vehicle of professional forest management, changed the Yurok landscape. (1995: 157)²

In this chapter I discuss the changing landscape of what is now northeastern Oklahoma using a political ecology approach. I focus on the dialectical relationships between conflicting human groups and between those groups and the non-human world – relationships that *produce* landscapes. As a point of departure, I follow Paul Robbins’ (2004: 209) emphasis on environmental *production* (as opposed to *destruction* or *construction*) in order to stress the ongoing process of making and re-making landscapes (dictated by both human and non-human forces), and the ever-present roles of power, politics, and time in shaping the outcomes. Robbins writes, “[A]s political ecologists continually emphasize, the environment is not a malleable thing outside of human beings, or a tablet on which to write history, but instead a produced set of relationships that include people, who, more radically, are themselves produced” (ibid.).

First I explore ethno-historical descriptions of the early environment so as to understand how Cherokees viewed, used, and manipulated the early Indian Territory landscape in aesthetic and pragmatic ways. Cherokees readily shaped the new land through customs, laws, agriculture, and especially, fire. Next I discuss how, following the Cherokee Golden Age and the aftermath of the U.S. Civil War, the railroad and timber economies of the Industrial Revolution infiltrated Cherokee lands and created significant environmental changes. In the midst of these changes, the federal allotment policy drastically altered the Cherokee land tenure system. The national fire

¹ See also Stoffle, et al. (1997), and Basso (1996).

² See also Walker and Fortmann (2003) for a discussion of normative landscapes in the “exurban” Sierra of Nevada County, California.

suppression era of the 1930s, combined with the Great Depression dealt another blow to Cherokee subsistence strategies and interactions with the land. Later, the creation of man-made lakes by the Army Corps of Engineers in the 1940s and 50s in order to promote outdoor recreational tourism literally flooded many Cherokee settlements. Drawing inspiration from Huntsinger and McCaffrey (1995), I discuss how these factors contributed to the displacement of the Cherokee normative landscape, and, concomitantly, the increasing restriction of Cherokee access to forest resources.

But Cherokees have not been passive bystanders to these policies and restrictions. As demonstrated in chapter 1, Cherokees enacted numerous movements of resistance in response to allotment, and the Original Cherokee Community Organization (OCCO) was, after all, a reaction to Oklahoma state hunting license laws. More recently, the self-governance compact of 1990 under Chief Wilma Mankiller played a large role in reclaiming control of Cherokee land and resources. In this context, I discuss the creation of the Cherokee Nation Natural Resources Department and the Office of Environmental Services around this time. These institutions initially took over the responsibilities of the Bureau of Indian Affairs and mimicked federal agencies. Through time, however, they began to develop their own institutional identities. In this final section, I discuss how the legacy of imposed state and federal policies affects both contemporary tribal citizens and tribal resource managers, and further, how that legacy affects the relationship between the two groups. Following Robbins (2000: 141), I focus on “knowledge alliances” – networks, and cross-scale interaction that constitute actual practice among local and state (or bureaucratic) actors. From here, I conclude with a discussion of the elders group in the context of networks, alliances, and access theory.

The Produced Environment in the Early Cherokee Nation

Accounts of the environment in the early days of the Cherokee Nation (west) are scattered throughout the Indian-Pioneer Papers and the Doris Duke Papers, a collection of interviews from the 1930s-1960s (housed in the University of Oklahoma’s Western History Collection) that capture entire generations of experience and memory. Virtually every account on the environment in these collections tells of abundance in wild edibles and game. Even if one accounts for a certain level of nostalgia reflected in these reminiscences, the consistent picture that emerges from each of them is significant. One account, given by E.F. Vann in 1938 (born in 1870, aged 68 years), asserts:

The country of the Cherokee Nation was thinly populated and wild game was abundant. ... In the Flint District and in surrounding districts, except in the clearings which were being tilled, the country was still in its original condition, a hill country of forest with small areas of prairie scattered through it. It seemed the entire country abounded in wild game, deer, bear, opossum, raccoon, wild hogs, wild cattle, wild horses, bobcats, squirrels, rabbits, wild turkeys, quail, prairie chickens and wild pigeons.³ ... All species of soft water fish were abundant in the creeks and rivers... Wild bees were common and the Indians could have plenty of honey by cutting down a “bee tree” and robbing the bees of their treasure. Each fall many nuts were gathered such as pecans, walnuts, hazelnuts, and chinquapins as well as

³ Note the mention of “wild pigeons,” referring to the existence of the once plentiful (but now extinct) passenger pigeon in the Indian Territory. See Littlefield (1969) for a full discussion.

hickory nuts. ... Some orchards were planted but not many because there were plenty of wild fruits and berries such as plums, grapes, seedling peaches, dewberries, huckleberries and a number of others.

The “wild hogs” and “wild cattle” were a result of free range animal husbandry that was widely practiced in the early days throughout the Cherokee Nation. Speaking more specifically of this, Elinor Meigs (born 1862, aged 75 years) stated in 1937:

I can remember when there were dense canebrakes in the river lowlands which afforded wonderful winter range for cattle, also a shelter for the stock from the severe winter weather and a refuge for game. There were also wild fruit [sic] in abundance, such as wild plums, strawberries, dewberries, blackberries, raspberries and huckleberries. Game was plentiful, such as deer, turkey and prairie chicken. ... The prairie grass in those days were [sic] as tall as a person’s shoulder and grew in every nook that was not covered with trees, and it was free and open range for stock. But that also, like everything else we once had, is gone.

Allowing stock to roam free throughout the woods was a custom afforded by the Cherokee land tenure system, in which all land was considered public domain. Fences at that time were almost non-existent, save for rudimentary “zigzag” rail fences that surrounded family plots of about 20-25 acres (Hewes 1978: 28). The accounts of dense canebrakes and shoulder-high prairie grass indicate an ample supply of wild fodder (which also included “mast,” or wild nuts), eliminating the need for manufactured feed. Instrumental in creating this condition was the human use of fire.

In their inhabitation of the lands west of the Mississippi, Cherokees came across a lived environment. Quapaw, Osage, Wichita, and Caddo peoples had once inhabited parts of what would become the Cherokee Nation lands in the west (Baird and Goble 1994). Indigenous fire regimes had helped to define the character of the western Ozarks at that time: park-like old-growth forests with interspersed grassy meadows. As anthropologist Albert Wahrhaftig documented in the 1970s: “Cherokees say that, when they first came to the area, the Ozark forests had trees so big and so widely spaced that through them you could see a man on horseback a quarter-mile away” (Wahrhaftig 1978: 421). In the eastern homelands, Cherokees had become very familiar with fire as a management tool; naturally, they continued this practice in the western lands (Fowler and Konopik 2007: 168-170). In addition to documented evidence of Cherokee burning in the Ozarks (*ibid.*), the above accounts – in their descriptions of abundant berries and game, and large meadows and canebrakes – suggest that a regime of controlled burning continued in the Indian Territory.

Studies on anthropogenic fire in North America have shown that, throughout the continent, Native Americans used fire to open up the forest by freeing it of underbrush (Pyne 1982; Stewart 2002). One main reason for this was to aid in human mobility through the woods and allow for better visibility while hunting (Fowler and Konopik 2007: 167). Additionally, burning generated fresh growth in meadows and fields, which in turn attracted game to forage in these sites. Thus, the practice simultaneously encouraged a healthy population of game, and aided humans in hunting them for subsistence (Lewis 1993). The use of fire also made gathering forest resources easier. Setting frequent, light, controlled fires cleared understory species that could otherwise prevent easy access to berry bushes and nuts (in the Cherokee case, this benefited both humans and their livestock). Further, under these conditions, berry bushes thrived



Figure 3.1. Images from Hewes (1940) taken in the 1930s, showing possible remnants of pre-statehood environmental conditions. Pictured on the left: grassy, open woods in southern Adair County. On the right: A Cherokee subsistence farm in the Jenkins Creek area, Adair County. Note the “zig-zag” rail fence and the deadening girdled trees in the field.

– the light fires kept fungus and insect pests at bay, and “stimulated the production of fruits” (Huntsinger and McCaffrey 1995: 166). Yet another reason, especially in the south, was to control the undesirable tick and chigger populations.

Thomas Blackburn and Kat Anderson assert that fire was also used by Native Americans for “creating and sustaining vegetational mosaics” (1993: 19). The accounts of dense canebrakes, scattered prairies, and open forests in the Indian Territory indeed may have been examples of such mosaics, sustained by the Cherokee use of fire. Frequent light fires also stabilized forests by regularly burning off the “ladder fuels” that can carry fire into forest canopies, resulting in devastating “crown fires” (Huntsinger and McCaffrey 1995: 163). The time of year that one burned also factored into the efficacy of fire as a management tool. Oral accounts from my fieldwork say that burning the hills was an annual early fall activity. To this effect, the Cherokee Nation, as early as 1841, established a law that prohibited “any person or persons, to set the woods on fire, from the fifteenth of October to the first of March, in each year” (this implies that early spring was also an acceptable time to burn).⁴ However, scientific research on river cane (*Arundinaria gigantea*) shows that longer burning intervals of 7-10 years would have been necessary to maintain large canebrakes (Brantley and Platt 1997; 2001),⁵ which suggests that Cherokees employed a nuanced application of fire for different vegetational zones.

Agriculture in the early Cherokee Nation was primarily subsistence-based. As stated above, Cherokee farms averaged 20-25 acres. In this regard, Cherokees also employed fire to clear their fields for planting. Large trees in a field plot were girdled, left to dry out, and then burned (Hewes 1978: 21). Among the eastern part of the Nation (the Ozark hill country), a community-based way of life was predominant, exemplified by another practice for clearing farm plots, called “rail maulings.” Similar to the old *gadugi* work groups, rail maulings were social events designed to help neighbors and friends. According to a description by Lynch Sixkiller (born 1879, aged 58 years) in 1937,

⁴ The Constitution and Laws of the Cherokee Nation: Passed at Tahlequah, Cherokee Nation, 1839-51. Originally published in Park Hill, Cherokee Nation in 1852. Reprinted by the Cherokee Executive Committee in 1969 with the Oklahoma Publishing Company. (See pp. 48-49)

⁵ Cited in Fowler and Konopik (2007: 168).

[W]hen a man wished to make a new farm, he would invite his friends to meet there at some specified day and bring their axes, wedges and mauls. Sometimes the man who wished the land cleared would have mauls and gluts made so that the work would not be hindered if the extra ones were needed during the day and sometimes he would have some timber already cut the length of rails in order to get more rails made. The whole family came along with the men for it was a day of enjoyment as well as work. The visiting women always assisted in preparing the big meal for the noon hour. There were always prizes given and the one who could win the first prize was highly honored. The man who made the most rails during the day received first prize of one dollar in money; the one who made second received a plug of Star tobacco; and the one who scored third received a cake. Many times there would be a party given the night following the rail mauling.

Many similar accounts of this time show a strong communal ethic. To this effect, money was rarely needed or used. Another account from the Indian-Pioneer Papers given by Phyllis Pettit (born circa 1861, aged approx. 76 years) in 1937 states:

We didn't have a hard time making a living then. We raised our corn and our meat and molasses. We had our own garden truck, and if one family had hard luck and didn't raise enough to do them, other families in the neighborhood would divide with them.

Yet class differences in the Cherokee Nation did constitute differences in agricultural production. The more expansive eastern prairies were often farmed on a larger scale by more affluent Cherokees who either owned slaves or employed white migrant workers. Regardless, the early Cherokee Nation agricultural economy consisted of minimal exports (Hewes 1978: 24-30).

Because of the Cherokees' communal system of land tenure, the tribal government saw the need to pass numerous regulations on the use of the public domain – most notably on the export of resources to U.S. citizens. For example, the sale of timber to U.S. citizens was strictly prohibited, and the use of salt wells and salt springs was regulated by short term leases and limited to Cherokee citizens. Mineral resources such as coal and lead were also regulated and restricted to citizen use only. In 1841, a law was passed that prohibited the felling of pecan trees. Hewes clarifies this act, stating that a common way of harvesting the nuts had once been to cut down the entire tree (Hewes 1978: 29). The same act regulated the burning of the woods, which I mentioned above. While these regulations were made “no doubt with popular approval...to preserve the resource for the general good,” a subsistence economy undergirded by communal land tenure made it difficult for the Cherokee Nation government to perform these regulations for lack of a permanent source of funds (normally obtained through the levying of property taxes) (Hewes 1978: 29, 31). This issue would later result in serious problems for the Nation, to which the U.S. Civil War served as the catalyst.

Threats to the Public Domain

The Civil War left the Cherokee Nation in a state of devastation; however, numerous accounts depict a rapid reconstruction. In as few as four years, Cherokees had restored their farms and livestock (Hewes 1978: 33). The interviews in the Indian-Pioneer Papers provide further testimony that Cherokees were able to return to their former state of well-being in a

relatively short amount of time. Bird Doublehead (born 1843, aged about 95 years) stated in 1938:

There was still in the country as was before the war all kinds of wild berries, fruit, and nuts as well as plenty of wild game and this was a Godsend for people did have something to eat if they could just manage to raise a little corn, wheat and the like. There was [sic] lots of wild hogs in the woods and no one tried to raise hogs to any extent. We did start raising cattle and it was not long until cattle ranches appeared throughout all Indian Territory of some fashion or the other.

Although Cherokees would once again enjoy a short time of prosperity, the Treaty of 1866 – signed with the United States as a response to Cherokee involvement in the fight against the Union – contained harsh stipulations that would soon be set in motion.

Geographer Brad Bays notes that “[t]he Cherokee Treaty of 1866...attempted to merge the basic goals of federal Reconstruction, which sought to establish federal authority, with those of federal Indian policy, which sought to end tribal autonomy” (1998: 39-40). Although the goal of U.S. political leaders to geopolitically incorporate the Indian Territory would prove a slow and difficult process (culminating with Oklahoma statehood in 1907), the Treaty of 1866 opened up the Cherokee Nation to railroad companies, and with them, intensive resource exploitation and settler encroachment. In 1871, railroad tie cutting began in the northeastern part of the Nation. Mainly post oak was harvested for this purpose; however, the industry soon realized the abundance of quality timber for export and convinced local Cherokees to sell stands of old growth black walnut (Bays 1998: 82). Thus, the railroad industry both required and facilitated large-scale timber exploitation. Although the Cherokee Nation passed laws to inhibit the sale of hardwood timber, Bays notes that “[t]he trade was a prime example of the ineffectiveness of Cherokee law and federal administration to control railroad exploitation and intruder spoliation in the Indian Territory” (ibid.).

The railroad and timber industries, working in concert with each other, marked the onset of the Industrial Revolution in the Indian Territory. A different kind of fire emerged on the Cherokee landscape during this time. High intensity, stand-replacing fires accompanied logging activity, as felled areas were often burned to prepare them for grazing livestock (Fowler and Konopik 2007: 170). Sparks from passing locomotives could also ignite exposed, dry, clear-cut areas (ibid.). These activities changed the character and composition of the Ozark forests by eliminating old growth hardwoods and pines. Large fields eventually replaced many of the park-like expanses of forests that had once defined the Cherokee Ozarks. The disturbance also drastically affected important forest resources, such as huckleberry bushes. In 1969, the interviewer of J.D. Whitmire (born 1891, aged 78 years) gave the following account:

He recalls a long time ago when they looked forward to huckleberry time. Then families would go into the woods and gather the berries by the washtub full. The bushes would be so loaded they just set the tub under them and strip the berries off the limbs. But then came the whiteman and his timber cutting and burning of woods and another pleasure and suffice of the Indian went. ...

This at one time was a good timber country [Adair County], and many carloads of ties and lumber were shipped from Addielee. A sawmill operated there for many years. When the

railroad was taken out the town quickly died. He says the railroad was taken out because the whitemen mismanaged the cutting of timber. No reseeded or planting for the future was done and even today the once plentiful pine and hardwoods have not returned.

The Cherokee agricultural landscape was changing too. With an increasing population of non-citizen tenant farmers, and with increased activity among an elite Cherokee planter class and intermarried whites, illegal enclosures were becoming more of a problem. Before 1875, the only legal fences in the Cherokee Nation were the previously mentioned zigzag rail fences – intended to enclose a small family plot (the legal amount was no more than 50 acres per family member). Regardless, by the early 1870s, numerous types of fencing dotted the landscape, including board, barbed wire, hedge, and stone. In 1875, the Cherokee Nation government legalized board, hedge, and stone fences (among others, probably due to their benignity), but maintained the illegality of barbed wire. With barbed wire, one could enclose a vast amount of land for relatively cheap, and this was the predominant practice among the larger Cherokee prairies (Hewes 1978: 40).

Hewes (1978: 50) details this situation in his analysis of an 1897 surveyor's map of Cowskin Prairie (the largest of the eastern Cherokee Nation) and the surrounding woodlands (Figure 3.2). Plots occupied by the aforementioned demographic of non-citizen tenants, intermarried whites, and elite Cherokees encompass the prairie almost in its entirety, leaving little of the public domain unfenced except for a small number of roads. Some of the enclosed fields exceed one square mile (640 acres), and the "quarter-mile rule" (a Cherokee custom long since signed to law that stipulated a distance of at least a quarter-mile between plots) has apparently been ignored. In contrast, the neighboring woodland area – occupied by a different demographic of community-oriented Cherokees – shows only a few small enclosed pastures, mostly rail fences, and an extensive amount of space left open for public domain. Speaking of the large prairie enclosures, Hewes states, "It was not a Cherokee landscape. ... Monopoly, contrary to the Indian ideal, prevailed" (ibid.).

As I previously discussed in chapter 1, the conservative faction reacted strongly to these illegal enclosures. In 1875, Oochalata led a movement to protest the perversion of the traditional communal land tenure system. The actions of the minority elite group were seen to lead to corruption and greed, which violated the core principles of the Keetoowah philosophy adhered to by the traditionalist majority. Later as principal chief, Oochalata passed strict labor permit laws in an effort to curtail the practices of the elite few and ensure the expulsion of laborers and tenants who remained illegally in the Cherokee Nation after the expiration of their leases. The counter-reaction to these laws by the small "progressive" group was to circumvent the tribal government and petition the U.S. federal government. McLoughlin aptly describes their situation: "They had become a small bourgeoisie without power" (McLoughlin 1993: 313). Their petition, although very different from the ideas of U.S. policy-makers, called for the allotment of the tribal public domain.

A foundational principle for the allotment of tribal lands in severalty was that the vast majority of the public domain was "unused." The Cherokee citizens in favor of allotment proposed that the solution to this perceived problem was to simply allot the entire land base to citizens only. There would be no "surplus" land for outsider settlement, and "the [federal] government would not dare to take from individual property owners the land that these outsiders wanted" (McLoughlin 1993: 280). The problem with this proposal was that, while it might inhibit white encroachment, the land would become alienable, and thus could be bought and sold by anyone. This aspect struck the nerve center of the anti-allotment faction's sentiment – the

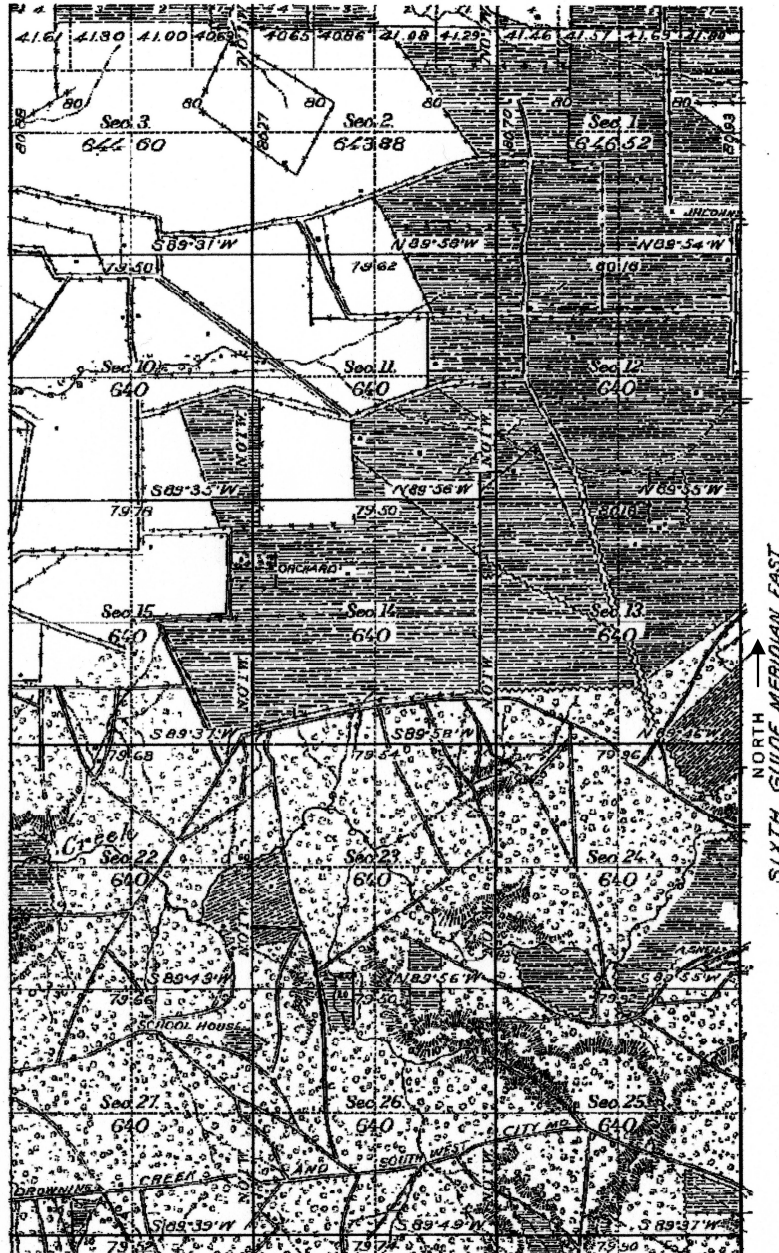


Figure 3.2. Survey map of Cowskin Prairie area (in what is now northern Delaware County), showing large tracts among the prairie to the north, and the contrasting small tracts in the wooded area to the south. From Hewes (1978).

tribal land base was the crux of national survival, and the Cherokee Nation had already experienced the devastating effects of unauthorized land sales by losing their homelands in the east.

The Cherokee Nation, along with the other nations that comprise the “Five Civilized Tribes,” had initially avoided the allotment policy (enacted in 1887) because they held the fee-simple title to all their lands. The Cherokee “bourgeoisie,” by undermining the process of handling internal affairs as a sovereign nation, cut short any further deliberations when they took their case to the U.S. government. Federal policy-makers used this case (that of impeded “progress”), in conjunction with contradictory reports of unchecked capitalization, as an excuse

to intervene. Yet, as I discussed in chapter 1, these policy-makers had a very different proposal for allotment. Settlers in the neighboring states of Kansas and Arkansas wanted land, and U.S. policy-makers were in the position to oblige them. The problem of intruders in the Indian Territory had already gotten out of hand. As McLaughlin states, “federal refusal to honor the requirement of removing intruders was to be the means of forcing the Indian nations to do what they did not want to do” (ibid: 364). By the time the Curtis Act asserted federal plenary power over the Five Tribes, the Dawes Commission was fully intent on creating a “surplus” of land for white settlement.

Whereas the railroads had opened up the Cherokee Nation for incorporation into the capitalist market economy, the implementation of allotment effectively territorialized tribal lands. Formerly, Cherokee farm plots, settlements, and towns had been seemingly scattered and non-uniform as a result of the Cherokee communal land tenure. Because land was not taxed or deeded to individuals, there was no need to uniformly map land claims. A look at pre- and post-allotment USGS survey maps shows that boundaries to land claims and agricultural fields pre-allotment were more determined by natural features rather than arbitrary invisible lines (Hewes 1978: 58-59) (Figure 3.3). With the imposition of allotment, individual plots of land needed to be divided and mapped in order to be assigned to tribal citizens. Thus, the post-allotment map is a series of uniform square grids that transect natural boundaries; it represents former experienced” space as imagined, “abstract” space (Vandergeest and Peluso 1995: 388-389). Doing so virtually erased established plots and facilitated land expropriation. Land that was neither allotted to tribal citizens nor settled by non-citizens was reserved and held “in trust” by the U.S. government (often this was non-arable hill country and forest land).

Fire Suppression and the Divestment of Resource Access and Control

Around the turn of the century, resource conservation and scientific forestry were becoming the dominant frameworks for U.S. land management policy. As a reaction to the destructive actions that accompanied railroad construction and industrial logging, the conservation movement advocated the professional management of natural resources to ensure sustained yields. This movement is often accredited to the first chief of the U.S. Forest Service and the founder of American professional forestry, Gifford Pinchot. Due to the recent large-scale annexation of tribal lands by way of allotment, it is not surprising that tribal forests were included in this movement. After a brief period of turf wars between the Forest Service and the Bureau of Indian Affairs, the Act of 3 March 1909 (35 Stat. 783) established BIA jurisdiction over forests on tribal trust lands under its Division of Forestry. In the absence of tribal governance institutions (a convenient fact that was also due to allotment), the Omnibus Bill of 1910 (36 Stat. 857) named the BIA the official managing body of Indian forests. In this regard, the BIA oversaw trust property timber harvests, including the finances of these operations, which were also held “in trust.” At this point, Indian forests became “part of a national, conservation-based forest management program that would assure a steady supply of timber and protection of watersheds” (Huntsinger and McCaffrey 1995: 171).

According to this new management regime, the key to ensuring the availability of timber was the suppression of fire. Whereas this position was primarily aimed at eliminating catastrophic industrial fires, all forest fires were judged a threat to valuable national resources (Fowler and Konopik 2007: 171). The combination of clear-cut logging, catastrophic fires, and

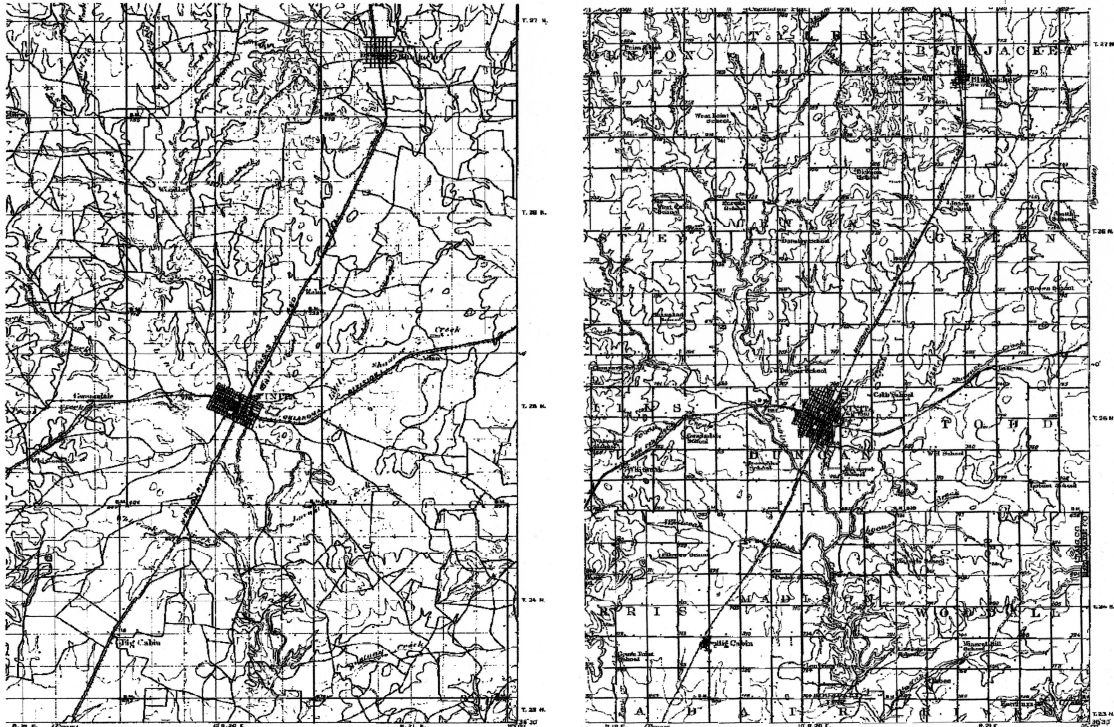


Figure 3.3. Survey maps of the southeastern part of Vinita quadrangle (U.S. Geological Survey). The map on the left represents lands pre-allotment (surveyed 1896-97); the map to the right, after allotment (surveyed 1911-12). From Hewes (1978).

the elimination of controlled burns caused significant environmental changes in the western Ozarks that impeded Cherokee access to natural resources. The buildup of underbrush that accompanied the second-growth forests decreased the ease of hunting and gathering by obstructing formerly open forests and providing ample habitat for pests like ticks and chiggers. Wild game populations likely diminished as a result of fire suppression (combined with an increased human population), as Huntsinger and McCaffrey (1995: 175) have documented.

After Oklahoma statehood in 1907, increased state infiltration of the former tribal land base imposed new laws and jurisdiction upon Cherokee people, including land use and hunting restrictions. “Hog-fencing laws” ended open range practices (Wahrhaftig 1978: 450), and non-Indians began to erect enclosures on former resource gathering areas. The Great Depression in the 1930s, along with severe droughts in 1935 and 1936, made matters worse – while the restrictions to forest resources increased, so did Cherokees’ reliance upon them. During this time, Wahrhaftig notes, “Cherokees were increasingly blocked from their generalized utilization of the woods and streams, deprived of sufficient cash supplement to capitalize even a subsistence farm, and confined to the tiny island of their allotments. Cherokee self-sufficiency had seriously declined by the time World War II arrived” (*ibid.*). Another account was given by the interviewer of Ross Bowlin (born 1909, aged 60 years) in 1969:

For Ross much of the country has changed in his time. New roads and fences have been one of the big changes, which came with the white man who owns nearly all of the land now. As we drive around the hill country, Ross points out different places where he used to hunt, but now it is all fenced, although few people live here. He finds it hard to understand that the

whitemen don't live here, but comes [sic] and fences up the land and refuses to let anyone hunt. This is the story most Indian [sic] tell – the loss of their hunting right, their way. We pass a couple of whitemen driving new pickup trucks with stock racks, but there is no exchange of greeting. ...

Over on a stretch of woodland Ross tells that it was once the finest huckleberry place in the country. But no one is allowed in there now, and the “Warning! Keep out!” signs on the new fence bespeak the land owner’s greedy wishes. Speaking as one of them, Ross says that the Cherokees have never liked to see outsiders come into their country and destroy the woodlands, but the government has seen to it that there is nothing they can do about it. He says there is no longer any Cherokee Nation.

Distrust and bitterness toward the outsiders was heightened by the fact that many had directly deceived Cherokees and robbed them of their lands. “Grafters” and “land hawks” were terms for those who swindled Cherokees out of their allotment land – often with the help of the Indian agents (Wahrhaftig 1978: 424, 449). Many of the few white families with whom Cherokees had developed neighborly relations had moved elsewhere due to the Depression. Eventually many of these “abandoned” lands were consolidated into large ranches and bought by outsiders who rarely lived there, reflecting the above testimony (Wahrhaftig 1978: 420-421).

More restrictions came in the form of bureaucracy. The Dawes Commission tasked themselves not only with allotting lands, but allotting blood quantum to individuals. Doing so tied the degree of “Indian blood” (a flawed and socially-constructed notion) to a level of competency – the higher the quantum of Indian blood, the less competent an individual was to manage their land. “Restricted land” referred to land allotted to Cherokees of ½ or more Indian blood. Under this system, the land was exempted from property taxes, and the title to the land was held in trust by the BIA. A “restricted Indian” could not harvest timber on the land nor “develop” it without prior approval from the BIA. Further, since the land was not alienable, individuals could not use the land as collateral for loans, thus restricting entry into the market. This system was notoriously manipulated and exploited by the aforementioned grafters and land hawks, who often “helped” individuals with the process of taking their lands out of restricted status. Once this was achieved, the land was easily stolen by manipulating the bureaucratic system that was unfamiliar to many non-English-speaking Cherokees. Much of the archaic policies and bureaucratic red tape surrounding allotments and restricted land continue to this day, which I will discuss later in this chapter.

Producing the “Green Country” of Oklahoma

As a reaction to the Dust Bowl and the Depression Era, the Oklahoma State Planning and Resource Board (formed in 1935) began the construction of dams throughout the state. With the help of the Army Corps of Engineers, the Bureau of Reclamation, and the Grand River Dam Authority, numerous lakes were formed throughout northeastern Oklahoma in the former lands of the Cherokee Nation. The lakes were designed to provide flood control, a steady water supply, hydroelectric power, and opportunities for outdoor recreation (Johnson 1998: 4). As time went on, the area, with its large lakes and rolling green hills, became known among other Oklahomans and the surrounding states as a place for recreational tourism. In an effort to capitalize on the

region's new image, northeastern Oklahoma was dubbed "Green Country." The establishment of a special organization in 1965 – Green Country, Inc. – spearheaded this campaign and served to "coordinate [the] promotion and development of sixteen northeast Oklahoma counties" (Stauber 2007). Writing in the early 1970s, Albert Wahrhaftig commented:

[The term "Green Country"] evokes a new future for the region, as a paradise of woods, lakes, bass, legions of free-spending tourists and vacationers, second homes for Tulsans and Dallasites – the playground of Texas and Kansas. This image submerges the old realities: Indians, lawlessness, failed farms, poverty, cultural and economic backwash. The new image, and the national advertising that is merchandising it, has the timeless ring of God-created wilderness, revealing that Oklahomans are apparently oblivious to their impact on the environment. In less than a century it has been transformed, certainly to the disadvantage of the Cherokees and, perhaps, to that of everyone else. (1978: 421)

Also to the disadvantage of the Cherokees, as Wahrhaftig notes, was the flooding of numerous Cherokee settlements by the new lakes (*ibid.*). Entire communities were relocated, and family and community cemeteries had to be excavated and moved. Speaking with animosity towards the rapid rate of "progress" throughout Cherokee country, Wahrhaftig notes: "The price Cherokees have paid for Green Country is scrub-choked, tick-infested, second-growth forests; fishing lakes that have drowned former Indian settlements; and a displaced Cherokee population which is either on welfare or in California" (*ibid.*).

The effects of producing Green Country extend even beyond historical amnesia, environmental change, and Cherokee displacement. Since Oklahoma statehood, increased settler encroachment, fire suppression, and the creation of man-made lakes have had profound effects on Cherokee cultural transmission, which, in the case of gathering huckleberries, is directly related to resource access. Once a widespread activity among Cherokee families in the late summer, huckleberry gathering has significantly diminished over the years due to limited access, inundated gathering areas (both by water and underbrush), and decreased mobility through the woods. Although huckleberry gathering is still practiced by some, most Cherokees would rather not battle the scrub, ticks, chiggers, snakes, and angry landowners/forest rangers in order to obtain them. What is lost is an important opportunity for inter-generational bonding, cultural transmission, environmental education, and identity-building that was once a part of the Cherokee "seasonal round" (Wahrhaftig, *pers. comm.*). Today, the annual huckleberry festival in the town of Jay (Delaware County) imports its huckleberries from Arkansas instead of gathering them locally. The irony is not lost on many elders today, who know that the berries were once abundant (as recorded in the descriptions provided by J.D. Whitmire and Ross Bowlin above).

The making of Green Country accomplished the symbolic and literal incorporation of the Cherokee Nation into mainstream Oklahoma. Although the campaign was welcomed in some parts of the Cherokee Nation as a source of economic development, this proved to be for all the wrong reasons. Instead of promoting sustainable, locally-based economic opportunities, Oklahomans were more interested in resource exploitation (fish and game) and shallow cultural tourism that presented Cherokees as remnants of the past (Wahrhaftig 1978: 430-432). The Oklahoma Office of Tourism and Recreation maintains the image of Green Country today, along with five other tourism regions such as Kiamichi Country (*i.e.*, the Choctaw Nation) and Arbuckle Country (*i.e.*, the Chickasaw Nation). From the same entity comes the term "Oklacolor" to describe the geographical and cultural diversity of the state, and Green Country's

tag line in a promotional video asserts: “Green Country: We’ve got all the Oklacolors of the rainbow waiting for you in northeast Oklahoma. Go for it.”

Although incorporation into the state of Oklahoma has resulted in a seemingly typical rural Oklahoma landscape throughout the 14-county tribal jurisdictional area, the western Ozark Plateau remains the cultural and social heart of the Cherokee Nation. While Cherokees are still outnumbered by the local white population, cohesive Cherokee communities permeate the region – many of which, as Wahrhaftig (1968) documented, have persisted since Cherokee arrival in the Indian Territory. Wahrhaftig’s work (1966b) also documented the intense poverty of the region, and this by and large continues today. However, much has also changed since the time of Wahrhaftig’s field work that has positively affected Cherokees and their standing in the larger regional social milieu. As I stressed in chapter 1, Cherokees have been reasserting their presence and control in northeastern Oklahoma through the increasing sophistication of tribal governance structures (and through stronger community representation within them). Many of these strides have been made in the realm of resource control. At the time of Wahrhaftig’s research, the Cherokee Nation had little to no control over tribal lands; yet, in the 1980s and 90s, the Cherokee Nation would regain this power by taking control of institutions designed to protect and manage tribal natural resources.

Tribal Environmental Self-Governance and the Reclamation of Resource Control

In 1987, due to increasing frustrations with federal Indian bureaucracy, American Indian tribes throughout the U.S. began to question the efficacy of the then 12-year-old Indian Self-Determination and Education Assistance Act and called for significant policy amendments. While the Self-Determination Act had promoted American Indian control over their own affairs, the Bureau of Indian Affairs had been reluctant to step down from its paternal role. Many institutions, including Indian Health Service facilities and forestry programs, were still operated by Department of Interior personnel. Along with pressure from the tribes, a BIA fiasco in Arizona that received wide media coverage prompted congressional action. “Self-governance” became the new emphasis in federal Indian policy, and in 1988 new amendments to the Self-Determination Act created Self-Governance Compacts by which Indian tribes could “administer and manage programs, activities, functions and services previously managed by the Bureau of Indian Affairs” (tribalselfgov.org 2009). The legislation also acknowledged the authority of tribes to “redesign those programs and services to meet the needs of their communities, within the flexibility of allocating funds based on tribal priorities” (ibid.).

On October 1, 1990, Chief Wilma Mankiller signed such an agreement on behalf of the Cherokee Nation, and according to one informant, “put the Tahlequah BIA agency out of business.” At this time, the Cherokee Nation began to assume control over the former BIA trust programs, which included agriculture, forestry, and noxious weed and fire suppression on the 45,000 acres of Cherokee tribal trust land. The Cherokee Nation Department of Natural Resources (henceforth NRD – its common abbreviation) emerged as the new tribal entity for managing these activities. Also around this time, the Cherokee Nation Office of Environmental Services was established in an effort to mirror the activities of the U.S. Environmental Protection Agency on tribal trust lands. Later renamed Cherokee Nation Environmental Programs (CNEP), its duties entail environmental monitoring (water and air quality), as well as environmental cleanup and remediation (illegal dump sites, brownfields, and superfund sites). In 1992, the

CNEP developed and launched the Inter-Tribal Environmental Council (ITEC), which provides environmental services and training programs to 41 member tribes in Oklahoma, New Mexico and Texas (www.itec.org).

In 1993, the Cherokee Nation passed the Environmental Quality Act (later renamed the Environmental Quality Code) in order to “establish and implement a Cherokee Nation policy which will encourage productive and enjoyable harmony between human beings and their environment” (63 CNCA §301). The Act also aimed to “promote efforts which will prevent or eliminate damage to natural resources and the environment and to enrich the understanding of the ecological systems and natural resources important to the Cherokee Nation.” Moreover, the Act established the Cherokee Nation Environmental Protection Commission (CNEPC) to serve as an advisory board to the Cherokee Nation government. This flurry of activity in the environmental sector in the early 1990s earned the Cherokee Nation recognition as a leader in this regard throughout Indian Country.

Yet while the Cherokee Nation worked to extend tribal control over environmental programs, the BIA retained its authority in the form of “trust evaluations.” Outlined in the Permanent Self-Governance Act of 1994 (P.L. 103-413, section 403(d)), the trust evaluation

allows the United States to exercise the necessary supervision or oversight relative to its obligations to the Tribe and to individual Indians. An escape clause is provided whereby the United States may assume direct management of the physical trust assets, upon proper notice to the Tribe, if the trust assets are in immediate jeopardy. Imminent jeopardy is defined as significant loss of devaluation of the physical Trust asset, caused by the Tribes’ action or inaction. (tribalselfgov.org 2009)

By establishing regulations and normative “best practices,” which are guided by the assumption that lands must be made profitable, trust evaluations have served to maintain BIA bureaucratic imperialism and land management hegemony. BIA land management practices that are maintained to this day include loblolly pine agroforestry, the leasing of tribal lands to cattle ranchers for grazing, and fire and weed suppression to enable the two former practices.

Furthermore, the Cherokee Nation, although deemed “in control” of its own resources, inherited a complex land management bureaucracy, which was also held under BIA supervision. By inheriting this bureaucracy, the Cherokee Nation essentially inherited the institutional legacy of allotment. “Checkerboarded” tribal lands and the red tape that accompanies them cause difficulties in jurisdiction and property maintenance. Messy land deeds and property lines tell the story of grafters and land hawks. Multiple heirs of individual allotments complicate ownership beyond comprehension and inhibit any effective use of the property through agreement. And the lingering system of blood quantum that determines “restricted” land status continues to racialize property issues in the Cherokee Nation.

This system – its activities and bureaucracy – often puts undue strain on NRD staff, who are charged with maintaining the BIA standards, but simultaneously (as tribal employees) must respond to Cherokee Nation citizen input. Often the two tasks are entirely at odds with each other. For instance, tribal citizens frequently complain that their use of forest resources is jeopardized by NRD agroforestry activities – programs that are carried out per BIA “best practices” guidelines. Loblolly pine agroforestry eliminates the oak/hickory forest in place of mono-crop stands, which decreases species diversity in both flora and fauna and thus negatively impacts hunting and gathering activities. There is also an intrinsic value to the hardwood forests

that is compromised by these activities. At a community meeting in Kenwood (located in Delaware County where there is an abundance of tribal trust land – about 1100 acres of this is being used for agroforestry), one participant expressed his regret about seeing the habitat for birds and other animals disappear along with the hardwood forests. With a tone of voice that conveyed a deep familiarity and respect for the area, he said, “I would just hate to see them go.” In another instance, I have heard many tribal citizens note how “weed” suppression through the use of chemical herbicides is killing many important medicinal plants. Plants like milkweed (*Asclepias spp.*) that grow best in prairie habitats are sprayed due to their status as “noxious weeds” to livestock.

Only recently has the NRD begun to deviate from BIA protocol, and this stems largely from a response to the citizen input exemplified above. Loblolly pine monocropping has decreased in the last two years, and NRD staff has begun to reconsider the use of herbicides on prairies in favor of brush-hogging (clearing by mowing). While brush-hogging would inevitably cut back some culturally-significant prairie plants, NRD staff has discussed reserving areas of important plant growth for cultural use. Further, harmful chemicals would be eliminated from land management practices.

The reduction of BIA activities has also been accompanied by the initiation of other culturally-appropriate land management activities. In the last four years, NRD staff has launched numerous “cultural forestry” projects that emphasize the cultivation and/or reintroduction of culturally-significant species. Numerous plantings have taken place, most notably the large-scale planting of Shagbark Hickory trees (*Carya ovata*) – an important species for food, crafts, and medicine that has become increasingly scarce. Osage Orange, or Bois D’arc trees (*Maclura pomifera*) – long used by Cherokees for making strong bows – are being planted as well. NRD staff has also begun to focus more on non-wood forest products, which include the medicinal, edible, and crafts-based herbs, forbs, and grasses that have no significant “value” from the perspective of BIA forestry programs. Rivercane (*Arundinaria gigantea*), used for numerous traditional crafts, and ginseng (*Panax quinquefolius*), a highly important medicinal herb, have been key species in these efforts. The reintroduction of ginseng to the Cherokee Nation is hugely significant in the context of the ethnobotany project, and is in fact a result of the elders group meetings.

These cultural forestry projects, although inspired by citizen input, also stem from the larger trend of cultural revitalization within the Cherokee Nation government. Such a political climate has allowed NRD staff to devote some of their time to the maintenance and protection of cultural resources, and to explore alternative management practices. The work directly informs at least one key policy initiative – the Cherokee Nation Integrated Resource Management Plan (IRMP) – with the goal of identifying and cataloging cultural resources for conservation purposes. The ethnobotany initiative is a component of this strategy, although, as we will see in the next chapter, the inception of the elders group has transformed its goals to include broader objectives.

Of course, this new approach to land management is not without obstacles. NRD responsibilities are not limited to agriculture and forestry activities – the department is often stretched thin by demands from other Cherokee Nation departments that rely on NRD staff’s expertise in areas like land appraisal and geographic information system (GIS) technology. Further, at the time of my fieldwork the interest in ethnobotany rested with only two staff members (although trained in biology, they have no formal training in ethnobotany), which made the cultural element of their work more of a side bar than a central priority. There is also a



Figure 3.4. NRD staff planting ginseng and goldenseal roots (top left); 2-year-old ginseng root (top right); Ginseng sprouts after one year (bottom left); Goldenseal sprout after one year (bottom right). Photos by author.

certain amount of hesitancy in renouncing BIA “best practices” in favor of activities that promote cultural resources. Not only do land leasing and agroforestry contribute to tribal revenues, but the BIA maintains its paternal oversight and technically can still assume management of tribal lands if they are in “immediate jeopardy” – a tenuous situation in which tribal resource managers find themselves.

Reinstating cultural practices on the land – perhaps a more concrete reclamation of tribal resource control – also poses difficult issues. Although the NRD has been known to aid and supervise small burns on tribal citizens’ property, when I asked about re-establishing controlled burns on a large scale, one informant replied that the idea was a “bureaucratic nightmare” due to the checkerboarded land ownership and federal and state restrictions. Yet another obstacle is simply the paucity of tribal lands over which the Cherokee Nation has “control” (Figure 3.5). This not only limits the ability to create space for tribal management activities, but it also puts the NRD in the unfortunate position of having to govern access to these lands. Thus, resource gathering, although still practiced throughout the Cherokee Nation, remains a controversial issue on tribal trust lands. While the right to gather on tribal trust land is open to all Cherokee citizens, access to many of these tracts is restricted by locked gates, and one must request a key from the NRD. This dynamic has caused tension between NRD staff and tribal citizens when, because of repeated instances of over-harvesting, NRD staff insists on opening the gates in person and remaining until the gathering is finished.

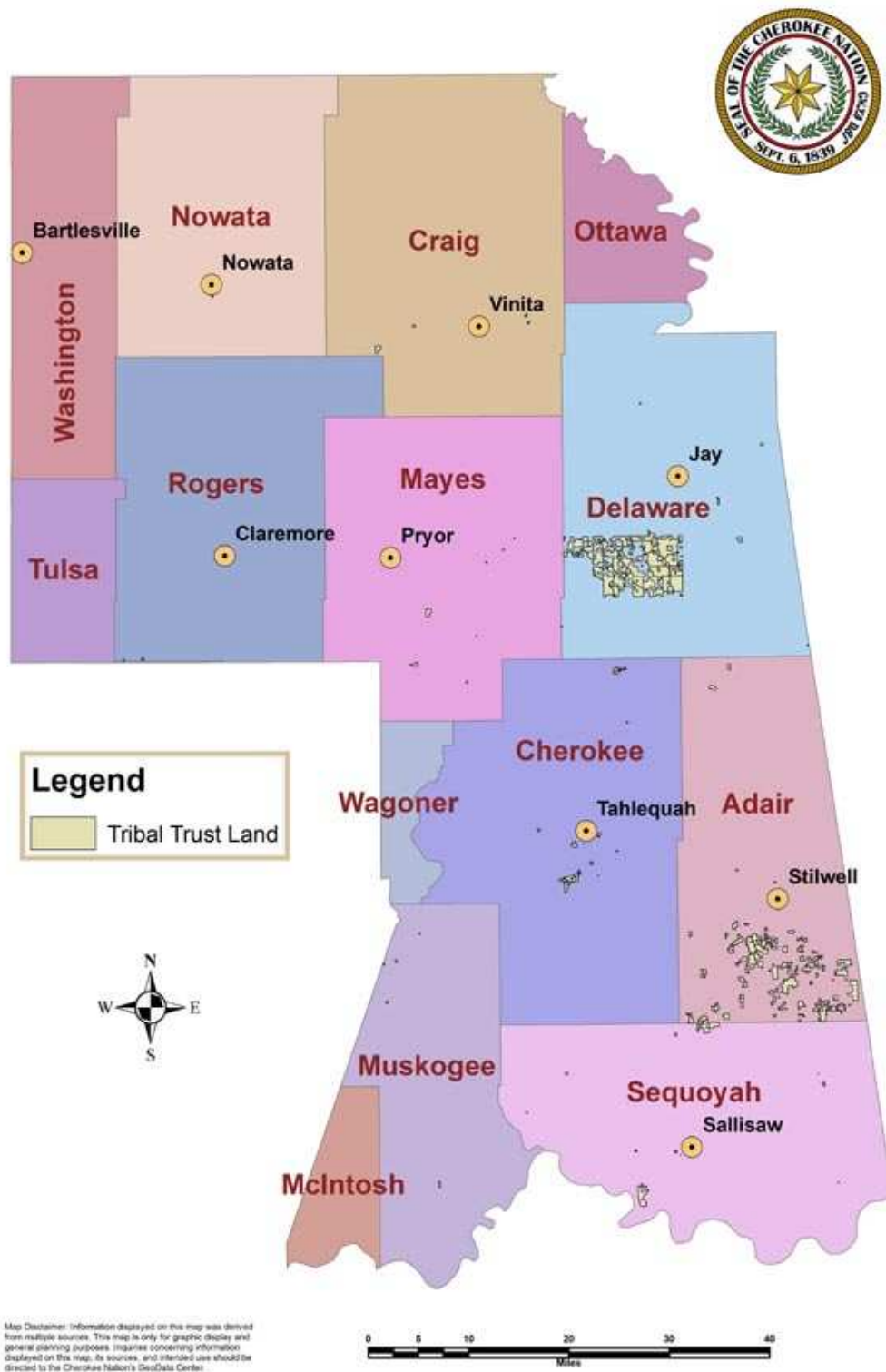


Figure 3.5. Current extent of tribal trust land in the Cherokee Nation. Whereas once the entire area was owned in fee simple by the nation, now the only significant reserves of tribal land are located in Adair and Delaware Counties (even these areas are severely “cherckerboarded”). Courtesy Cherokee Nation GIS Department.

The over-harvesting of plants and animals by some Cherokees is a reality, even though this tendency is considered a deviation from traditional ideals. Many in the elders group are aware of over-harvesting activities and assert that the decline of traditional knowledge is a direct cause of this. The assertion may seem ironic in that “traditional ecological knowledge,” or TEK, concerns the harvest and use of forest resources; however, many individuals seek natural materials for activities like crafts-making that, although considered “traditional,” when taken out of context can lead to the misuse and over-exploitation of certain plants. The use of bloodroot (*Sanguinaria canadensis*) has become a highly sought-after plant that is used for making a natural red dye for baskets. Members of the elders group have commented that younger craftspeople mistakenly gather large amounts of the root when only a small portion is needed to make a good quality dye.

This topic has been raised during the elders group meetings with regards to issuing gathering permits to individual tribal citizens, but so far there has been no resolution. Tribal elders themselves have been stopped and questioned by the Cherokee Marshal Service when gathering plants on tribal lands, leading the elders to advocate a way to distinguish between those who have been properly “trained” to gather, and those who may still need guidance or teaching from a knowledgeable source (i.e., an elder). Yet myriad complications arose concerning who would have the authority to issue such permits, and whether or not the program would be effective. Unfortunately – at least in the preliminary discussions – it boiled down to a political issue. When approached with the idea of gathering permits, many tribal council members considered the proposal to be contradictory to their responsibility towards all citizens, and were not in favor of a program that would grant special rights to individuals.

The reclamation of resource control in the Cherokee Nation, while a positive step towards Rebecca Tsosie’s (1996) notion of “tribal environmental self-determination,” has created difficult situations for Cherokee Nation governance institutions. Understanding these problems requires a diachronic viewing of their sources, as well as an analysis of the social intricacies of present-day Cherokee Nation environmental governance.

Networks, Alliances, and Access Theory

This chapter has attempted to highlight how the modern-day issues of resource access and control in the Cherokee Nation originate in the tumultuous history of the Cherokee land tenure system. Scholar Khaled Bloom (2002) has amounted this history to “an American tragedy of the commons,” an analogy that sends the wrong messages to an audience familiar with the fallacies of Garrett Hardin’s (1968) thesis. The Cherokee Nation did not suffer from the type of mismanagement and overexploitation of the commons by self-interested individuals that leads to environmental degradation (a problem that Hardin wrongly attributed to ignorant peasants); rather, the nation struggled to compete with, as Bloom (this time) correctly asserts, “a rapidly modernizing agricultural economy” (2002: 523). The situation mirrored what Marx (1967 [1867]) was noticing in Europe around the same time – that the breaking up of traditional commons was a requirement of the capitalist mode of production. Thus, the actions of opportunistic Cherokee citizen-elites and the federal allotment policy were part of a larger, more widespread phenomenon.

The forces of colonialism and the expansion of the capitalist mode of production during this era combined to reduce Cherokee political structures to the point of ineffectiveness and to

almost completely diminish the tribal land base. Although Cherokee political structures have to some extent been reclaimed and reinvigorated, the complex history has resulted in a tribal government that must juggle the demands of a colonial governing body with the needs and concerns of tribal citizens – all the while having to work within a severely fractured land base. The situation is sure to produce instances of internal conflict, but we must never lose sight of its obscured origins in colonial policies and capitalist political economy. In this light, we must view the politics of resource access and control in the Cherokee Nation under the “double state” dynamic presented in the introduction. The Cherokee “state,” although a source of governance, is less a mechanism for authoritarian rule than it is an apparatus for the protection of tribal assets and an instrument for tribal self-determination. Thus, when discussing relations between Cherokee Nation state actors and ordinary tribal citizens, it is more useful to frame the analysis in terms of networks and alliances, rather than assuming *a priori* “state vs. local” opposition.

K. Sivaramakrishnan (1999: 281) has argued against the presumption that state agencies are represented by non-local “experts” who often disenfranchise or displace local peoples and their respective environmental practices and knowledge. Similarly, Paul Robbins (2000) has found that in Rajasthan, India “the state does not produce knowledge to the exclusion of local accounts, but...it instead seizes and reproduces locally powerful knowledges and enforces management through alliances with locally powerful groups” (ibid.: 127). Such “knowledge alliances” between state and local actors form dialectical relationships that defy assumptions of top-down decision-making policies. The process of creating alliances is often predicated upon existing networks between groups, and Robbins further shows that such groups are not necessarily divided along lines of local vs. outsider. He writes, “[S]tate knowledge is dynamic within the bureaucracy, changing both from above, where sympathetic higher officers...are involved in ongoing struggles for control, and from below, where new communities are entering the state apparatus” (ibid. 142).

Framing state/local dialectics in this way illuminates the interpersonal relationships that exist on the ground between field workers and community residents. This framework is fitting for cases like the Cherokee Nation, where environmental management is carried out on a relatively small scale. The small-scale interactions between NRD field workers and Cherokee community residents, combined with the long-term and site-specific nature of NRD activities, create a high level of accountability. Even if a resource manager is not “local” in the sense that he or she was not reared in a Cherokee community (as was the case with my supervisor at NRD), credibility among the communities is very important because of the understood “soft” authority that communities have in their respective areas. Additionally, the general congeniality that is characteristic of rural social interactions, as well as the pride and dedication to “the people” that many individuals feel in working for the tribal government, are indicators of atypical “statist” tendencies. This assessment not only bolsters other scholars’ calls for viewing social organization and environmental politics in terms of *heterarchy* (Crumley 2003) and *networks* (Robbins 2004) as opposed to hierarchical chains, but it also displays aspects of the Cherokee state (notably its small size and unobtrusive role) that distinguish it from other states.

But despite the Cherokee nation-state’s relatively benign posture, there are areas from which community-based citizens feel increasingly alienated. While access to authority is relatively “open” (a tribal citizen can call or visit the director and staff of the NRD with relative ease), the job responsibilities of Cherokee Nation staff are often structured in a way that does not guarantee a citizen’s ability to meaningfully influence the outcome of events. As Ribot and Peluso (2003) remind us, legal or official rights have no value without the ability to *do* what

those rights stipulate – the right to resource access means nothing when the gate is locked. But just as the land base was diminished by forces beyond the control of the Cherokee Nation, so was its government. It is not surprising, then, that the reclamation of land and resources go hand in hand with the transformation of governance institutions. The elders group, which has made land one of its central concerns, thus represents the formation of a significant alliance. The group has created a forum in which to meaningfully express concerns from a traditional and spiritual perspective – a discursive space that has been lacking in Cherokee Nation politics since the Allotment Era. Although the group has coalesced around the subject of traditional plant knowledge, the forum is used to voice related concerns, as exemplified in the gathering permit issue discussed above.

Accordingly, the group represents the creation of an alliance that has enabled certain people to gain direct access to multiple forms of authority. Ribot and Peluso (2003) note that access to authority plays a large role in the ability of groups to benefit from resources. Through the group meetings, the elders have gained access to land management authority, and the proposal for creating gathering permits demonstrates the ability of the group to potentially influence land management decisions in very concrete ways. NRD staff has gained access to the elders' traditional authority – specifically in the form of plant knowledge, but also in the ability to sanction or condemn others' potentially harmful activities on the land. The dynamics created by this situation have spurred a healthy amount of caution with regards to the group's activities. Group members are cautious about “throwing their weight around” and instead have advocated for laying a foundation of broadly-defined spiritual values that would define the group's purpose as for the benefit of the community at large. Rather than purporting to speak for all, the group has emerged as an interest group or advisory council and represents the voicing of significant concerns from a particular perspective. How this group is situated within the larger movement towards the transformation of Cherokee Nation governance structures is discussed in the next chapter.

Chapter Four:

Re-Imagining Community

“I have always believed that the Great Creator had a great design for my people, the Cherokees. I have been taught that from my childhood up and now in my mature manhood I recognize it as a great truth. Our forces have been dissipated by the external forces, perhaps it has been just a training, but we must now get together as a race and render our contribution to mankind. We are endowed with intelligence, we are industrious, we are loyal and we are spiritual but we are overlooking the Cherokee mission on earth, for no man or race is endowed with these qualifications without a designed purpose... Our pride in our ancestral heritage is our great incentive for handing something worthwhile to our posterity. It is this pride in ancestry that makes men strong and loyal for their principal in life. It is this same pride that makes men give up their all for their Government.”

- Redbird Smith, Chief of the Nighthawk Keetoowah Council, 1918¹

The tribal seal of the Cherokee Nation bears the Sequoyan characters **ᏍᏏᏉᏍᏏ ᏍᏏᏉᏍᏏ**. Transliterated, they read *Tsalagi-hi Ayehli*, which is glossed as “Cherokee Nation.” But the word *ayehli* has more than one meaning. Its connotation with the concept of “nation” comes from its meaning as *center* or *middle*, but it can also mean *half*. To me, this demonstrates the subtle but pervasive tension in Cherokee society between national *unity* and community *autonomy*. That the word for nation can mean the *center* of things – nation as the core of a united community – as well as *one side* of things – nation as only one aspect of a whole people – speaks to the ambivalent relationship between Cherokee government and communities. This chapter, in essence, is about how the Cherokee Nation is balancing such tensions. I explore how Cherokees are addressing the conflicting tendencies of indigenous state-building embodied in the push-and-pull between contradictory social forms: unity and autonomy, bureaucracy and community, economic values and cultural values.

Cherokee history from the early 19th century shows that the formation of a centralized Cherokee state was a difficult and sometimes violent process. This process entailed asking formerly autonomous Cherokee towns to sacrifice some of this autonomy in order to present a unified resistance to colonial forces. Rebuilding the Cherokee Nation in the mid-20th century involved another call for unity. In 1967, Ralph Keen, a Cherokee who had been working as assistant director of the Bureau of Indian Services for the University of Utah, was called back home by Chief Keeler to serve as the general business manager of the Cherokee Nation. On a technical level, this job entailed managing the transfer of BIA funds to a tribal account, but it also included serving as a liaison to Cherokee communities. In all accounts, it is clear that Keen understood Cherokee community dynamics and how to meaningfully engage them in the process of rebuilding the tribal government. On May 6 of that year, Keen spoke the following words to a crowd at a prominent ceremonial ground near Vian, Oklahoma:

¹ From Emmett Starr’s *History of the Cherokee Indians* (1922). The exact date of Smith’s writing is not known.

It's always discouraged me that we have so many Cherokee Indian people and yet they don't act as one group. They act as 100 different communities. I hope that in the near future sometime that all Cherokee people will work together. I think this is possible ... because for the first time [since statehood] we have been allowed to work at it. That's why I'm here. I'm here to somehow or another build an organization called the Cherokee Nation of Oklahoma. And you know there used to be a Cherokee Nation before statehood. Until that time the Cherokees were doing well for themselves. When congress took away from us the right to govern our own is when we started having hard times. ... Chief Keeler has worked for a long, long time to get congress to approve us running our own business. He finally did and that was when he hired me. I don't know how to get all of this done. But I do know the first thing we have to do is get ourselves organized.

Calls for national unity in Cherokee society have repeatedly presented themselves in times of crisis, which unfortunately have defined much of Cherokee history in the last two centuries. But in the 40 years since Keen's speech, major acts of federal intervention (like forced removal or allotment) have ceased, and the federal Indian policy of self-determination has given Cherokees the chance to focus inward. After once again rebuilding a governmental infrastructure and reestablishing a strong tribal political presence, Cherokees are returning to a political aesthetic of community autonomy. This "aesthetic," although not entirely grounded in practice (I will discuss this further below), situates cohesive Cherokee communities as more central players in the political arena of the Cherokee Nation. While maintaining the central government as an administrative entity, there is a general movement towards re-instilling a strong sense of community identity as well as promoting community control over local affairs. This dialectical process is being influenced by both Cherokee communities themselves and Cherokee Nation governmental actors, as they engage each other in the course of community development projects. Such projects are at the core of an overarching strategy that looks to tribal history for inspiration.

Dojuwa Siquanid', or Redbird Smith, was an important figure in the history of Cherokee nationalism. A leader in a time of great turmoil, he devoted himself to the revitalization of religious traditions while simultaneously engaging with politics. The above epigraph shows his own perspective on the teachings he received throughout his life, namely the place and purpose of Cherokees in relation to the rest of humankind. His statement articulates a belief that is prevalent throughout many other Native peoples whose name for themselves translates into "the real people," or "the principal people." Although some might interpret this belief as a sign of chauvinism, the general concept behind it is one of responsibility – a responsibility to maintain continuity as a people by living under the "rule of law" that was given to them by the Creator (Wahrhaftig and Lukens-Wahrhaftig 1977: 231). Redbird Smith's concept of a "designed purpose" further indicates a responsibility towards humankind – to use Cherokee attributes, traditions, and values in order to help make the world a better place.

His final statement is less clear and somewhat cryptic. If the date for this quotation is correct (I could not find a proper record), Redbird Smith was writing in the twilight of his life (he died in November 1918). He had seen in others and had witnessed his own disillusionment with politics and government during the Allotment Era. In 1906, the Nighthawk Keetoowah Society separated itself from the body politic of the Cherokee Nation. The act symbolized a formal declaration of independence from any other faction of Cherokee society, and the Nighthawk Keetoowahs proceeded to devote all their energy towards their religious duties

(Thomas 1953: 173). Thus, we cannot be sure to which government Redbird Smith was referring – was it the exclusively religious “government” of the Nighthawk Society (to which he was “chief”), or was Smith writing with reference to the old Cherokee Nation that had thrived before allotment, with the hope that future generations might enable its resurgence? Regardless of his intention, the “pride that makes men [and women] give up their all for their Government” reveals a sense of nationalism that has been revitalized in Cherokee society today.

Over 90 years from when Redbird Smith wrote those words, his great-grandson, Chadwick “Corntassel” Smith, occupies the position of Principal Chief of the Cherokee Nation, and he uses this same quotation to promote contemporary nation-building. In his 40-page document entitled *Declaration of Designed Purpose: Yesterday, Today, and Tomorrow*, Chief Smith provides a brief Cherokee history, a description of the contemporary governmental structure, and “the vision, mission, and guiding principles to lead the Cherokee Nation for the next century.” The document is praiseworthy in its scope and goals. Presented to tribal citizens during his election campaign, and now to all new tribal employees at orientation, the declaration is intended to provide a context for envisioning a strong nation, as well as to familiarize non-Native employees with Cherokee Nation history and the foundations of tribal sovereignty.

Composed by an appointed leadership team after a series of “direction-setting” meetings, the vision for the Cherokee Nation is clear and specific: 1) “The Cherokee people shall enjoy and exercise an enriching cultural identity and way of life, which includes a thriving command of our language, cultural history, art, traditions, wisdom, and lifeways;” 2) “Cherokees and their government shall become economically self-reliant and sufficient to the extent that the Cherokee Nation is not required to accept federal funds to meet the needs of its people and every Cherokee has the opportunity to pursue the career of his or her choice;” and 3) “The government of the Cherokee Nation shall become, and maintain itself as, a strong sovereign government that protects the Cherokee people.” The term *gadugi*, which once referred to need-based economic cooperatives (Fogelson and Kutsche 1961), is invoked to convey the mission of the Cherokee Nation, expressed as: “working together as individuals, families, and communities for a quality of life for this and future generations by promoting confidence, the tribal culture, and an effective sovereign government.” The text also calls on the Cherokee “spirit” (inherent in Redbird Smith’s concept of “designed purpose”) as a guiding principal, and emphasizes that Cherokee values and culture should be upheld and promoted among Cherokee Nation staff and employees. The broad idea is to integrate traditional socio-cultural aesthetics and forms into the tribal bureaucracy. The *Declaration* is one example of the Smith administration’s platform of cultural and linguistic revitalization. It is also a firm statement of national identity.

In addition to this statement, Chief Smith’s administration has listed three priorities that make up a national strategy: Jobs, Language, and Community. According to this platform, all Cherokee Nation programs and departments must find ways to contribute to each priority. The strategy is intended as a road map for rebuilding a nation, and addresses three interconnected aspects of Cherokee cultural continuity. The recent past has shown an increasing amount of out-migration by young families, who relocate to urban centers in search of better economic opportunities. Creating jobs for tribal citizens provides young families with the opportunity to remain at home in the Nation. Secondly, the perpetuation of the Cherokee language is essential to preserving a culturally-based worldview. Elders repeatedly stress the importance of maintaining the language as a direct link to Cherokee traditions and knowledge. Lastly, promoting healthy and sustainable communities ensures that Cherokees continue to have a strong sense of identity based on kinship ties and social obligations. Strong communities also provide

roots for those who do decide to leave the Nation and may desire to return in the future. In short, the strategy is the tribal government's approach to fostering the perpetuation of the Cherokee Nation as a people.

In 2008, "Strategic Work Teams" were formed in order to develop ways to implement each priority through long term planning. The Community Strategic Work Team (CSWT) – comprised of mostly community-based tribal employees – has since formulated a series of goals, guidelines, and statements that articulate an ideal relationship between the Cherokee Nation government and Cherokee communities. The vision composed by the CSWT reads: "Communities shall enjoy and exercise a reciprocal relationship with the Nation that advances the accomplishment of community driven goals. It is through the accomplishment of these goals and *gadugi* that our communities will be safe, stable, and cohesive." A "reciprocal relationship" is defined as one wherein Cherokee government and communities offer their available resources (e.g., government resources may include funding and technical assistance; community resources may include leadership and volunteer work) to strengthen communities, and, in doing so, to strengthen tribal sovereignty. Thus, the CSWT plan emphasizes the establishment of partnerships between Cherokee government and communities in an effort to recognize local authority and leadership (non-formalized sources – e.g., elders and community-endorsed leaders) and to center community concerns and goals. Overall, the strategy calls for meaningful *engagement* from all parties.

The above visions, goals, and strategies represent a significant repositioning of governance priorities in the Cherokee Nation – they demonstrate a clear transition from outward to inward thinking. Some have termed this movement a "cultural renaissance" in the tribal complex. Indeed, Cherokee culture, language, and traditional values have never been stressed to this extent in the operations of the tribal government (since before Oklahoma statehood). Due to this radical shift, it is not surprising, then, that the implementation of these goals and visions has encountered obstacles. The current tribal bureaucracy and governmental structure were created for very different purposes under very different circumstances. Most of the tribal bureaucracy was directly transferred from the BIA, and the unicameral corporate model of government was intended to be a temporary solution for filling a 60-year gap in tribal self-governance. Thus, the political structures and bureaucratic processes that the Cherokee Nation operates under today are inhibiting the changes that the Smith administration seeks to make. In other words, whereas the Cherokee Nation government is attempting to move its operations towards a community- and culturally-centered approach, it lacks the ability to accommodate the ideas contained in that vision. Hence the "political *aesthetic*" I mentioned earlier, which does not equate to actual practice.

For example, the preliminary proposal by the CSWT to higher-level Cherokee Nation bureaucrats fell short of many people's expectations. The proposal, based on the vision and goals described above, was presented to Cherokee Nation "Group Leaders" – individuals among the executive branch who directly report to the chief on matters pertaining to each of the 16 "groups" that comprise the "Team Organizational Structure" of the Cherokee Nation. With some exceptions, many of the Group Leaders were not willing to get on board with the CSWT's proposal for engaging and empowering communities, despite the fact that the plans had been catered to these individuals using specialized technical language and diagrams commonly seen in strategic business plans. This reaction was couched in the Group Leaders' bias toward specialized knowledge, and their reluctance to recognize other forms of expertise that are not generated by degree programs. According to one of the CSWT members who attended the

meeting, many Group Leaders implied that they “know what’s best for the communities” based on their knowledge obtained from college degrees.

Theoretically speaking, this dynamic is predictable. Max Weber’s foundational writings on bureaucracy (1946: 196-244) illuminate the above tendencies – namely, the development of office hierarchy and the emergence of the “objective expert.” Weber writes,

The principles of office hierarchy and of levels of graded authority mean a firmly ordered system of super- and subordination in which there is a supervision of the lower offices by the higher ones. ... Office management, at least all specialized office management...usually presupposes thorough and expert training. ... The possession of educational certificates...are [sic] usually linked with qualification for office. (197-200)

Later, he describes how bureaucracy dehumanizes official tasks and policies by “eliminating from official business all love, hatred, and all purely personal, irrational and emotional elements which escape calculation” (216). By expecting workers and officials to disregard these elements of social life while engaged in work at the office, bureaucratic authority is able to supplant that of older social structures:

The more complicated and specialized modern culture becomes, the more its external supporting apparatus demands the personally detached and strictly ‘objective’ *expert*, in lieu of the master of older social structures, who was moved by personal sympathy and favor, by grace and gratitude. Bureaucracy offers the attitudes demanded by the external apparatus of modern culture in the most favorable combination. (ibid.)

In the case of the CSWT presentation, the Group Leaders possessed both the structural authority (from the system of office hierarchy) and the symbolic authority (from college degrees) to reject the CSWT’s proposals – even when the majority of Group Leaders, quite frankly, are not familiar with Cherokee community dynamics.

On another level, while the CSWT proposals contain well-thought-out, sincere ideas for empowering communities, there is still something missing – namely, the communities themselves. Although members of the CSWT are mostly “community people” (i.e., reared in a Cherokee community), the proposals are nevertheless formulated from the top-down. Individuals who are a part of the CSWT are also tribal “officials” who, according to Weber, enjoy “a distinct *social esteem*” by nature of their positions (199). This leads us to consider the lack of meaningful community representation within the Cherokee Nation government – a product of the corporate structure that inhibits any true delegation of authority to communities.

As I discussed in chapter 1, the corporate model of tribal government developed by Chiefs Keeler and Swimmer originated out of their backgrounds as businessmen. At the time, they believed this model was the most appropriate in order to provide immediate services to tribal members, and to quickly rebuild an institution that had been virtually defunct for over 60 years. Yet, as many tribal citizens expressed in the 1999 constitutional convention, the Cherokee Nation has outgrown the corporate model of government based on its “increased governmental responsibilities and the competing demands of a larger and more diverse citizenry” (Lemont 2006: 300). Additionally, Eric Lemont notes that unicameral tribal councils

were never intended to reflect and balance sociocultural groupings within tribes, such as family allegiances, clans, or bands. Nor were they intended to allow for the efficient operation of sovereign tribal governments. As in Swimmer's 1976 constitution, the motivation for unicameral councils was to facilitate the receipt and disbursement of federal funds through a corporate structure. (301)

Chippewa sociologist Duane Champagne further notes that a legislative system comprised of a single body of elected tribal councilors assumes that a society views itself as a collection of individual voters. This view, embedded in Euro-American ideals of individual rights and democracy, ignores "local community powers, [and promotes] conflict between the elected government and social and political forces that are not formally represented within the tribal government" (2006: 19-22).

One situation during my fieldwork demonstrates the distance that many tribal citizens perceive between their communities and the tribal government. In late summer of 2006, I attended a community meeting in Bell, Oklahoma – located in predominantly rural (and predominantly Cherokee) Adair County. Although the meeting was formally called to discuss a proposed tribal hunting and fishing code, arrangements had been made by the tribal councilors who represent the region to put on a "hog fry" for the occasion.² The meeting took place in the large community building there, and many folks showed up for the event. After everyone had enjoyed the food, tribal officials began their presentations. The hunting and fishing code presentations by the staff of the Office of Environmental Programs were well-received, and the discussion that followed consisted of a few concerned comments and questions about the proposed tribal policy. When this discussion ended, the two tribal councilmen came forward to speak to the crowd. Not long after they finished their address (mainly thanking those who had helped to put together the meal), participants began to raise concerns about the councilmen's lack of attention to local affairs. In a surprisingly confrontational tone (uncharacteristic of typical Cherokee signs of disapproval, especially in the context of a large gathering), one Cherokee Nation citizen, a resident of one of the poorest Cherokee communities in northeastern Oklahoma, stood up and declared to the councilmen, "We don't even know you." In response, one councilman proceeded to give out his cell phone number to the crowd, while the other claimed in defense that he had visited the community a few times. This tense situation encapsulates the feelings of many tribal citizens throughout the Cherokee Nation, which stem from a lack of control over, and knowledge of, tribal governmental affairs.

As such, the Cherokee Nation government today remains solely a central authority – *not* something that communities feel they can influence or change – which is precisely what Cherokee society resists. Duane Champagne (2004) notes that what made the 1827 and 1839 Cherokee Nation constitutional governments so successful were the ways in which their founders handled centralization. Through bicameralism, traditional and localized leaders (who were mostly village-endorsed elders) were a concrete source of authority among the tribal government – this was manifested in the national council. This structure originated as a conservative check to the national committee, and gave autonomous Cherokee townships direct access to political power. The system of community representatives created in 1968 as a response to community activism (the OCCO) was one attempt to recognize rural Cherokee communities. According to

² A "hog fry" is a large cookout featuring a variety of prized Cherokee foods like beans, potatoes, squash, corn, and of course, "fried" pork shoulder (the meat is slow cooked in water, then fried in lard to produce a delicious and tender final product).

Wahrhaftig (1978: 504-505), the representatives took hold of this system and used it as a venue for asserting community voices. But with the new constitution in 1976, it was replaced by the unicameral tribal council. In the current political configuration, even though tribal council members may be from Cherokee communities, with only 15 seats, there are simply not enough council members to provide adequate representation for Cherokee Nation communities (which currently number somewhere between 60-70). Yet, it is more than just a matter of numbers. The current governmental model and bureaucratic system have eliminated the role of tribal elders (in the Weberian sense, the “old masters”). The absence of the traditional authority and wisdom of elders creates another source of tension that tends to strain relationships and distance communities from the tribal government.

The change necessary to ameliorate these conditions is not a radical one for the Cherokee Nation. Along with Champagne (2004), I argue for the resurrection of the bicameral legislature as one way to address the structural limitations of the current Cherokee Nation governmental system. Champagne proposes that, as in the historical model, “The [current] tribal council can serve as a lower house [i.e., the national committee], while an upper house [i.e., the national council] can be constructed from elders or major confederated groups [communities] who exercise influence and authority already within the [tribal] community” (2004: 57). It would reasonably follow that the upper house be apportioned by the number of Cherokee communities per district, while the lower house be apportioned by a fixed number per district. Cherokee citizen John Keen (son of Ralph Keen) made a very similar proposal during the 1999 constitutional convention (see Lemont 2006: 301-302); however, as I stated in chapter 1, the motion was ultimately rejected due to the monetary cost it would potentially entail. Given the context that I present above, I argue for seriously reconsidering this proposal during the next constitutional convention, which is due to be presented to Cherokee citizens as a voting issue in 2015.

This structural change would be well supplemented by attending to issues of process, or “how things get done” at the tribal complex. The corporate model of government has not only limited community representation, but it has also profoundly influenced institutional procedures and planning. Scholar Patrick Sullivan (2006), in a critique of the influential Harvard Project on Indian Economic Development for Australian Aboriginal communities, has noted that often the approach to developing tribal “good governance” is founded in standard business management practices. Such an approach confounds governance as *political life* with governance as *bureaucratic management*. The origins of this approach lay in liberal theories of economic development for Indian communities, which encourage “free flows of capital into Indigenous communities, utilising the Indigenous labor resources, linking communities to market networks and contesting communalism” (8). As such, “good governance” is more about providing stable and efficient institutions that create a low-risk environment for outside investors, rather than building a political system that manages the distribution of authority throughout a national community (27).

The *modus operandi* of the Cherokee Nation bureaucracy reflects this economic approach to tribal governance. The employee orientation program of the Cherokee Nation, entitled the “Organizational/ Employee Development and Communications Passport Program,” purports to “build Cherokee Nation employees” through a series of workplace training sessions. In one of these sessions, new Cherokee Nation employees are taught to treat anyone who walks into the tribal complex as a “potential customer.” Chief Smith’s *Declaration of Designed Purpose*, despite its strengths as a nation-building document, upon closer analysis reveals similar business-

oriented characteristics. The 8-point direction-setting statement includes “strategic initiatives” (to develop “organizational team structure”), “desired outcomes” (to “achieve operational performance”), and “goals and objectives” (“goals should be ‘SMART’ – Specific, Measurable, Achievable, Related to the Mission, and Time-bound”). In this regard, the *Declaration* resembles more of a business plan than a national manifesto.³ Additionally, in order to implement the vision, mission, and strategies of the *Declaration*, the tribal bureaucracy employs the “balanced scorecard” system (BSC), designed by Harvard Business School professor Robert Kaplan and Dr. David Norton, President of the Palladium Group (a consultancy firm) – the efficacy and academic foundations of which have been called into question by Nørreklit (2003).⁴

Nevertheless, rather than to criticize the Cherokee Nation bureaucracy solely on the grounds of using business strategies (they are not inherently “bad”), I point out these traits to highlight the continued influence of corporate models on Cherokee Nation governmental operations. My overall point is that the Cherokee Nation government has found itself (albeit perhaps unknowingly) in the midst of an institutional identity crisis: while it strives to be a representative government, it is effectively and primarily functioning as a service delivery organization. The institution has moved too far in the direction of corporate strategy without paying attention to foundational aspects of governance (expressed as “political life” above). This has created a situation in which “nation-building” strategies must be funneled through models designed for generating profits, increasing worker efficiency, and ensuring loyal customers, which, although they are potentially positive goals for some areas of tribal management, are incongruous with the goals of strengthening communities, enriching cultural identity, and maintaining sovereignty. The promotion of abstract cultural values in the tribal government (as expressed in the *Declaration of Designed Purpose*) may re-center institutional priorities, but they are only symbolic until actual *processes* are modified to account for these values. While I acknowledge that tribal economic pursuits are necessary for establishing self-sufficiency (the Cherokee Nation maintains two companies that oversee tribal casinos and commercial industry operations – Cherokee Nation Businesses and Cherokee Nation Enterprises), I argue that nation-building could be better accomplished by de-centering top-down approaches and strategies grounded in economic principles in exchange for redistributing authority and building relationships between the tribal government and communities.

Sullivan frames this process in terms of creating “effective channels of communication with the wider governance environment of a community,” and “crafting effective consultation, information sharing, and permission getting processes” – thereby moving away from the problem of obtaining sufficient community representation within a tribal organization (2006: 27, 30). He also stresses that we should not focus on how to make a structure representative through finding a “cultural match” (as in Cornell and Kalt 1998) or attempting to “incorporate” culture into it. His main stance is that *culture*, as an organic, living entity that is expressed within and among a group of people, should be left where it belongs: in the community – not reductively codified in a structure that inhibits its free expression (12). Anthropologist Paul Nadasdy (2003) makes a similar claim with regard to indigenous Kluane traditional environmental knowledge (TEK) and

³ The corporate style of the document is less surprising when one considers that Chief Smith holds a Master of Business Administration degree, and that he served as tribal planner for Chief Swimmer during his administration.

⁴ Nørreklit (2003: 611) asserts that Kaplan and Norton and the BSC system belong to the genre of “management gurus.” She writes, “[T]he authors may succeed in persuading—although without convincing—because the audience associates them with prestigious academia, but the text has little to do with scholarly work. The authors draw on the prestige and not the expertise of academia.”

state bureaucracies in Canada. He posits that as a result of the bureaucratic structure of state management programs, state scientists tend to impose this structure on TEK (in his words, “compartmentalize”) to fit preordained categories that do not exist in the indigenous knowledge system as separate from the whole. A similar oversight happens when state officials selectively choose or “distill” aspects of TEK to fit the research design. To stress this predicament, Nadasdy writes elsewhere,

The integrated holistic view of the world [in which Kluane traditional knowledge functions] ... cannot be accommodated by the institutional structure of the state management system into which [it] is being “incorporated” ... reliance on distilled TEK research and the bureaucratization of Kluane people extend the networks of scientific resource management into the communities and work against the direct participation of the Kluane in the management process. (1999: 6, 14)

Both Nadasdy and Sullivan write based on situations in which foreign institutions are being imposed upon an indigenous society. While their critiques are important for understanding the unexamined assumptions and power relations in bureaucratic state practice and economic development models, the Cherokee Nation case here is slightly different. For one, attention to structure (which Sullivan rejects in the Australian case in favor of looking solely at process; Nadasdy only focuses on the structure of non-indigenous bureaucracies) is relevant with regards to Cherokee governance because structures have served a much larger historical role and have thus been made culturally-relevant on Cherokees’ own terms. Arguing for a bicameral legislature is not so much trying to fit abstract culture into a model of government; it is more a recognition that the model works well with the configuration of Cherokee society (cf. Champagne 1992). Further, the proposal is not to return to some far off pre-contact traditional structure. On the contrary, the system worked for the Cherokee Nation in the very recent past. Where efforts to “incorporate” culture are evident, they should be understood in the framework of Nadasdy’s and Sullivan’s critiques; however, the ability of indigenous people to transform “foreign” institutions remains a promising prospect. Creating a bureaucracy wherein the values of *gadugi* are truly employed is a challenging but exciting possibility. In short, I argue that both structure and process are important in the Cherokee case: creating adequate space for community representation while engaging communities through relationship-building.

To expand on the concept, relationship-building, or in Sullivan’s terms, “consent-getting” is a *continual* process. His take on this is worth quoting at length:

Consultation with the wider community needs to be continual and part of daily life. It needs to happen wherever people find it congenial. For organisations this may be in council meetings, for families it will be in family gatherings, for youth groups it may be around the basketball court or similar. Information-sharing should also take place during the active use and management of the land, the daily work of functional organisations. There must also be recognition that getting informed consent is always a continual process. It is not a one-off sign-off. Conditions may change, new information may come in, new understandings may be reached in the light of experience, and different interests may arise as individuals develop and the composition of groups changes over time. An important part of ongoing permission-getting is an agreed monitoring process, since changes to procedures need to take place in light of previous success or failure with implementing decisions previously arrived at.

As a complimentary addition to this approach, I suggest that what I term “articulatory projects” can function as an effective means of consultation and relationship-building. Borrowing from Chantal Mouffe’s Gramscian notion of “articulating principle” (Mouffe 1979: 193; see also Purcell 2009: 300) which describes the unification of a diverse group of people around a specific political project, articulatory projects seek to unite the realms of government and community around particular topics or goals. Such projects, as in the case of the elders group, are inherently cultural projects that seek to accomplish the same things as top-down business-oriented strategies, but by very different means. Often, these types of cultural projects turn out to be much more than what they seem, which I will discuss below.

But before I continue, I feel I should differentiate my critique of Cherokee Nation governance institutions from the criticism of past scholars. The Cherokee Nation government received harsh criticism from researchers in the 1960s (Fink 1979; Wahrhaftig 1975a; Wax 1971a; Wax 1971b) who aimed to expose the Cherokee Nation government as a fraudulent entity. I have expressed my position on this perspective in chapter 1, viewing it as a product of 1960s anti-establishment activism, “action anthropology,” and other outdated anthropological perspectives on “traditional” peoples. Further, these analyses often fail to account for the broader framework of colonialism, as well as the historical context of Cherokee factionalism and resistance movements. I offer my critical analysis of their assessment not out of adversarial intentions, but to point out that their biases have led to some inaccuracies that I have come to realize in the course of my own discussions with contemporary Cherokee elders and intellectuals in northeast Oklahoma.

One of these realizations came to me in a conversation with an influential elder and traditional healer. We were discussing the tribal government one day, and he began to recount his close involvement in “bringing back the Cherokee Nation” during the 1960s. At one point, he mentioned how he and the others charged with this task had to make sure that “they” did not take over. Not knowing the exact nature of his involvement during this time, I asked who he meant by “they.” I had expected to hear him describe the “white Americans of Cherokee descent,” who, according to Wahrhaftig, had taken over the tribal government to the dismay of full-blood communities; instead I was surprised when he turned to me and said bluntly: “AIM” (the American Indian Movement). One incident of this happened when, on June 24, 1967, in the midst of the efforts to rebuild the tribal government, a group of local AIM leaders confronted Chief Keeler at the dedication and opening of the new tribal motel and restaurant. Carrying firearms, they questioned Keeler’s administration of tribal funds and challenged him to open the books for their inspection. Keeler willingly complied and allowed them to view the books and voice their concerns. When they found no evidence of wrongdoing or mismanagement, and realized they had no grounds for prosecution, the AIM leaders left peacefully (Lowe 1996: 125).

One of the targets of the American Indian Movement’s activism was tribal government, which they assumed by principle to be unrepresentative of each respective tribal nation. The stance was in reaction to the federally-mandated creation of tribal governments under the 1934 Indian Reorganization Act (IRA) – an act with good intentions but poor consequences. The IRA governments, which were intended to give Indian people greater control over their affairs, were based on Euro-American democratic models and poorly reflected the culturally-specific forms of governance throughout Indian Country. In many cases, corruption was rampant in these new institutions (Holm 1985). Although its structure was influenced by this federal policy, the Cherokee Nation government was *not* an IRA government. Technically speaking, the Cherokee

Nation government had never ceased to exist; it had just been under federal control, or, in the words of District Judge Bryant, it had been subject to 60 years of “bureaucratic imperialism” (*Harjo v. Kleppe* 420 F.Supp. 1110 (1976)). Although the structure differed significantly from the pre-statehood form, Cherokees were in the beginning stages of *reclaiming* this institution. The fact that Cherokees are *still* working towards this goal is evidence that the process takes a considerable amount of time.

The style of activism that the American Indian Movement employed was contrary to the Cherokee cultural preference for non-confrontational protest (usually expressed in the form of social and political withdrawal), leading many Cherokees (along with other Native people throughout the country) to disapprove of the organization. While Wahrhaftig often wrote eloquently and accurately on Cherokee non-confrontational cultural patterns and behavior, his virulent criticism of the “Cherokee Establishment” (which echoed the AIM leaders’ tactics) implied that *all* Cherokees (read: “fullbloods”) were bitter and opposed to the tribal government. This was simply not true. As I stated before in chapter 1, many traditionalist “community Cherokees” liked and respected Keeler, and strongly associated themselves with the Cherokee Nation. While problems with the burgeoning Cherokee Nation government did arise, they were addressed by the formation of grassroots organizations like the OCCO, which resulted in institutional change within the governmental structure. While the efficacy of these structural changes remains a source of tension, my overall point is to stress the importance of Cherokees’ (*including* governmental officials) ability to work out these problems on their own accord. In short, Wahrhaftig and others were harshly criticizing a Cherokee institution that was only in the beginning stages of its development.

Of course, things have changed since that time. Today, one is hard-pressed to simplistically equate racial composition or cultural identity with involvement in the tribal government – many government people *are* community people (cf. Sturm 2002).⁵ Although Fink noted this to some extent (1979: 437), his ultimate assessment was strikingly pessimistic. In discussing the future of the Cherokee Nation government (“the Establishment”), he writes,

[T]he only reasonable conclusion one can draw is that the Establishment’s purpose is to take as much away from the Indians as possible. ... If culturally fullbloods ever elect a majority to the Council and a Principal Chief who represented them there would be very little left for them to control. Only the ephemeral federal programs, those that could disappear overnight, would be left for the fullbloods to administer. (438)

Much to the contrary, “culturally fullbloods” control a significant amount of permanent, tribally-funded programs today.

One example is Community Services Group Leader Charlie Soap – fluent Cherokee speaker and respected Cherokee traditionalist – who occupies one of the highest positions in the Cherokee Nation bureaucracy. Charlie’s position and work repeatedly came up as exemplary in the course of my fieldwork with regards to community relations. The Community Services Department mainly works with community development projects and is a product of the late

⁵ Wahrhaftig himself noted this difference when he was invited back to the Cherokee Nation in 2002. Cherokee Nation Policy Analyst Dr. Richard Allen had come across Wahrhaftig’s work and circulated it among tribal leaders, who decided that its ethnographic aspect was relevant some 30-plus years after its publication. Wahrhaftig was asked to provide the tribal government with an assessment of contemporary Cherokee communities based on this socio-cultural data gathered in the 1960s.

Wilma Mankiller's efforts. The department is associated with projects like building community centers and installing water lines (one of Mankiller's legacies is the Bell community water line project in the early 1980s, which involved creating a self-help partnership with the community in order to bring running water to people's homes for the first time); it also maintains a self-help housing program. Charlie's job involves not only overseeing these operations, but providing a solid and reliable link between Cherokee Nation services and rural communities. Regarding Charlie's good status among the communities, one "culturally fullblood" informant stressed that this had less to do with his identity as a "fullblood" and more to do with his hard work in earning that respect. Even an individual like Charlie could lose this status rather quickly if he abused his position or violated the trust of the communities.

This is not to say that things are perfect – as I demonstrated in regards to the CSWT meeting, many Group Leaders are unable to grasp the goals of community plans, and so Charlie is more of an exception than a rule. But while I do take a critical stance towards the current Cherokee Nation government, rather than aiming my critique at individuals, or framing my critique in a way that pits one group against another, I argue that ironing out current wrinkles in the Cherokee Nation social and political fabric has more to do with the way things are structured and how problems are approached – institutions and processes. My critical stance is informed by my experience with a budding institution – the elders group – that deviates significantly from many current institutional structures and processes in the Cherokee Nation, while reinforcing their end goal: building a strong nation with a firm sense of identity. I do not doubt the eventual efficacy of Cherokees appropriating business models and strategies (my thought is that they would need revision almost beyond recognition), but rather I draw attention to another avenue for "re-imagining community" in light of what is happening on the ground.

The nature of Cherokee institutions has been studied by Wahrhaftig (1975b) and Fink (1979) in the context of ethnographic fieldwork anecdotes and their analysis of the OCCO. Although their studies are highly influenced by their biases regarding tribal politics, they reveal some concrete traits of Cherokee social organizations that I discuss below, augmented with my own observations. Here I define an institution as a group of individuals that have formed out of a reaction to a specific problem or issue, and, as such, have united around a set of common goals to address this problem.

Cherokee institutions, like Cherokee community life, are firmly based in inter-personal relationships. While I was organizing the first elders group meeting, often what sparked the most interest in those who I invited was the mention of who else planned to attend. Knowing those involved and who they could expect to see at the meeting clued people in to what type of meeting it would be. The high importance placed on relationships reflects how Cherokees "go to extremes to avoid giving offense to others" (Wahrhaftig 1975b: 138). Thus, in organizing the meeting, it was equally important for me to think about how all the attendees would get along. Although this might seem an overly selective and, therefore, biased approach, it was nevertheless a vital part of planning the meeting (I will address the problematic issues of this later). Inviting individuals who might clash with each other would be counter-productive and irresponsible on my part, and would have unduly put all those attending in an uncomfortable position (which is another reason why people were generally curious as to who would be there).⁶

⁶ Yet, I should stress that Cherokees, like all people, are flexible and resilient, and also have to function within the everyday norms and expectations of mainstream American society (which many would argue does not go through the same lengths to guarantee social harmony). The oft-cited Cherokee "harmony ethic," then, is really only an *ideal* to be aspired to, *not* a rigid rule that, if broken, results in chaos.

The group dynamic that evolves out of budding Cherokee institutions continues to rely on relationships to determine group roles, although at first these roles are often unspoken and relate to how (and how much) one speaks. The anecdote I gave in the introduction demonstrates this dynamic – at first, Henry assumed a speaking position and gently guided the discussion; however, upon the arrival of Kenneth, his demeanor changed completely out of respect for his elder (and also a specialist on the subject of medicine). As the meetings progressed, and others began to hear about the group, sometimes “new” people were invited to attend a meeting. Later it became clear that the existence of more and more people unfamiliar to the original group were making some of the original members “clam up” and not say much – presumably out of fear that what they had to say might clash with another’s opinions. One elder more than hinted to me about this, saying “It’s gotta be a small group, and it’s gotta go slow.”

A small group not only reduces the potential for disagreements or personality clashes, it also ensures the ability to reach consensus on group decisions. As the culturally-sanctioned method of decision-making, consensus is another topic that demonstrates the pervasive tension in Cherokee society between unity and autonomy. Because Cherokees value interpersonal relationships and “go to extremes” to maintain them in a harmonious way, Cherokees have developed a high respect for individual autonomy. This is expressed in the disapproval of any type of coercive authority in Cherokee institutions or among the community. Fink notes that “roles” within Cherokee institutions are expressed only in a very limited sense. Writing on the early formation of the OCCO, he says, “Instead of thinking of a task and then designing roles to fit the task, individuals would emerge who were interested in and who could competently handle a task” (1979: 464). Leaders assume their positions more in terms of serving the larger whole through their respective skill sets, rather than as coercive “bosses.” Generally, people must feel like they all “have a hand” in how things are being done (Wahrhaftig 1975b: 145), although this is not to say that individuals will not defer to those who are more knowledgeable (usually elders) with regards to reaching consensus for the benefit of the group. But in the case that consensus cannot be reached, after the dissenting position has been made clear, a person’s disapproval is expressed through non-participation, or withdrawal – the idea is to simply desist, thus avoiding overt hostility, but nevertheless making a point (ibid: 137-138). Because withdrawal often leads to factionalism, in order to avoid this situation, usually the matter is dropped if consensus cannot be reached. Unity, therefore, is a highly valued principle in the context of Cherokee social organization. It not only expresses solidarity, but it attests to the strong foundation of a collective decision as a product of slow, thoughtful deliberation.

The principle of building a strong foundation through thoughtful deliberation is another key component of Cherokee institutions. This characteristic was displayed in the historical formation of the Cherokee state in the early 19th century, and it continues to this day. The concept was expressed to me by one elder using an analogy of a train – “it takes a long time and a lot of energy to get it moving, but once it’s got up to speed, its momentum is strong and it’s hard to stop.” Further, Fink writes that, to Cherokees, a strong foundation

will not easily factionalize because it will be based on consensus. ... ‘Building a strong foundation’ takes time...time to discuss, to analyze and to decide what actions will be necessary to allow Cherokees to return to the God given design outlined in the ‘White Path.’ Thus with sufficient time not only will the organization achieve consensus, it will also have the sacred sanction necessary for it to be considered an ‘Indian way of doing things.’ (1979: 463)

Because of the profound significance of unity to Cherokees, it is no wonder that the “sacred sanction” that Fink mentions is expressed in conjunction with consensus. In the early 1980s, Archie Sam, the late Natchez-Cherokee elder and spiritual leader, gave an eloquent description of the sanctity of unity. Speaking of the ceremonial stomp dance, he said,

[F]rom the start you must have people who are united in body and mind, people who are going through the rituals as one person totally united. If this is so, then the sacred fire picks up and sends out waves like a radio station. If everyone is putting out the same waves, then the outpouring through the fire and smoke is sure to reach God. Unity is a fantastic power. Nothing needs to be spoken when this is so. God feels it and responds. No audible prayer can be as strong. (Mails 1992: 326)

Not surprisingly, Kenneth (the spiritual leader described in the introduction) also stressed the importance of unity for the elders group:

It’s hard to find people these days who are pulling together, but that’s what we need. There will be opposition out there. But one way to avoid that is to stick together – let’s get this done. If those who oppose us get you to talk against someone in this group just once, then they’ve done their damage.

Later, he expressed his call for unity in relation to “the spirit”:

This program must start with the understanding that what we do is for everyone. When we can unite under these old teachings, we can start to really accomplish our goals. We will truly be together, not by material or physical stuff, but by the spirit.

Thus, where factionalism is a dangerous and frequent impediment to the creation of successful tribal institutions, Cherokees have developed a sense of reverence for its polar opposite. Nevertheless, this definition of unity still respects autonomy (of the individual or community) by the way things get done (deliberation and consensus). To Cherokees, unity is a delicate balance.

Thus far, this discussion speaks to three defining characteristics of Cherokee institutions: 1) careful attention to interpersonal relationships, 2) small groups that allow for the reaching of consensus on group decisions, and 3) slow and careful deliberation. These traits stand in marked contrast to standard bureaucratic procedure. As Weber (1946) has described in his ideal-typical model of bureaucracy, the institution operates “without regard for persons” (199, 208, 215-16), within a hierarchical structure of authority and decision-making (197), and with heavy attention to efficiency (214-15). Although actual practice may not always follow this model, Weber’s analysis illuminates that the tendencies of bureaucratic institutions are to conform to these traits. Given that the two forms – in their ideal types – are practically incommensurable (and that somehow “incorporating” one into the other would be beside the point, as Nadasdy and Sullivan suggest), what makes the elders group significant is the *alliance* between the two, resulting in a new formation.

Meetings have become the format for the group’s efforts, and in these beginning stages, they have been necessary venues for the deliberation of the group’s mission and goals. Yet the



Figure 4.1. Cherokee community non-profit “Blue Sky Water, Inc.” headquarters and the meeting grounds for the elders group.

meetings also encapsulate the new formation that has been created out of the alliance between a Cherokee Nation department, a Cherokee community non-profit, and a small group of elders. During these meetings, presentations are made, items are discussed, and strategies are devised. Taken out of context, this last sentence would reflect the activities of a regular business-oriented bureaucratic meeting at the tribal complex. However, the elders meetings are conducted “out in the communities” (i.e., in a rural area of the eastern part of the Cherokee Nation), often outdoors, and usually seated around a fire (see Figure 4.1).⁷ Further, the elders are given free reign over the discussion. Presentations and an “agenda” (more of a list of proposed talking points) do provide a loose structure to the meetings, but not enough to detract from the informal flow of conversation and frequent story-telling that characterize them. Food is also ubiquitous during the meetings, and although the NRD has a small budget for taking care of this, often group members bring a dish to share “pot-luck” style. As such, meetings not only serve to “take care of business,” but they are also cherished opportunities to maintain and renew relationships. Many have expressed how the meetings remind them of what people did years ago when meetings were more commonplace. As one elder said, “People used to visit one another.” Small gatherings among peers to discuss important topics outside of family and work obligations once had a firm

⁷ Exceptions are made during the winter months, when meetings are sometimes moved inside the non-profit’s small cabin adjacent to the fire ring.

place in the Cherokee social world, and many feel like the group meetings are reinvigorating this.

Yet the group is not without challenges. Some of the first topics to be discussed concerned its relationship to the Cherokee Nation government – specifically how to maintain group autonomy and permanency. For instance, there was caution when discussing funding this initiative through a Cherokee Nation program or department. This was expressed by one elder, who said, “Anytime an Indian program in this Nation comes up, [the powers that be] act totalitarian and shut down what the Indian group has proposed.” Similar comments made it clear that the larger tribal political apparatus could not be trusted to handle sensitive cultural knowledge with the appropriate respect and protocol. Reasons for this stem from the tendency of program administrators to attach strings to tribal funding – in which case the group would lose its autonomy and the ability to determine its own course of action. This concern is also based on the perception that many government officials would not recognize the significance of this project and the reasons why it must be treated in a delicate and deliberate manner.

But despite the reservations the group had with tribal funding, the option was not completely cast away. Indeed, Cherokee Nation funding that is free of federal oversight and influence seems like the most logical source of funding for this project so as to keep sensitive knowledge within the tribe. During our fourth meeting, strategies were devised to account for the incompatibilities between the elders group and the tribal government. One such strategy was proposing a tribal council resolution, outlining the group’s purpose and goals, and requesting a commitment from tribal funds. Ironically, this strategy uses the tribal government’s formal process – but it does so in order to solidify the group’s autonomy and thus establish an alternative method of decision-making. This demonstrates a central point: that when faced with obstacles that ran contrary to a traditional way of doing things, the group reacted by innovating, thus creating something new while maintaining a foundation of traditional values. Instead of rejecting the Cherokee Nation governmental structure, the elders group proposed going *through* it in order to create space for a different set of principles. Such transformative processes will be critical points of study in the near future, as the Cherokee Nation has the potential to create new forms of tribal governance that bridge the gap between government and community.

Other challenges have to do with reconciling traditional forms of operation with changing circumstances. For one, the tradition of slow deliberation is difficult to justify amidst the urgency of rapid knowledge loss. This point was deeply felt after just one year of the group’s existence, when one of the group elders passed away. Although permission has been granted to begin recording Cherokee ethnobotanical knowledge, the process by which this gets done has also proven to be slow. As I alluded to in chapter 2, another challenge is whether to adopt formalized mechanisms for group organization so as to properly identify the group (e.g., a “declaration”) and to ensure certain provisions in dealing with membership, meetings, et cetera (e.g., bylaws). Although such formalized mechanisms would facilitate certain tasks and dealings with outside entities, they could potentially create a structure too rigid for the free flow of knowledge and ideas between group members that currently characterizes group dynamics.

Yet another challenge is the issue of representation. As a friend and colleague told me, the group represents “a diverse crowd of a certain type of Cherokee.” Although the members represent a diverse mixture of Cherokee communities, all are to some extent visible actors who engage with the Cherokee Nation government on a regular basis (many are Cherokee Nation employees). Admittedly, the networks I established in the course of my work as an employee for the NRD were not entirely “objective.” However, in this case, “perfect” representation is

problematic. For one, there are simply not many people who have retained Cherokee plant knowledge to a significant degree – the pool is small. Secondly, the nature of Cherokee institutions requires a small group with people who get along. This factor has to be taken into account in order to ensure a successful group. Lastly, as an initiative that originated in a Cherokee Nation department, the odds that “non-Cherokee Nation folks” (i.e., participating and vocal members of the United Keetoowah Band) would participate were slim (although, as I expressed before, even obtaining the participation of “Cherokee Nation folks” was difficult). I should further stress that just because the elders group is working through the Cherokee Nation government does not mean that its efforts are exclusively for Cherokee Nation citizens. On the contrary, the most vocal proponent of the group’s efforts continually stresses the applicability of the initiative to *all* people (even non-Cherokees).

There are many other challenges that I will leave to be discussed among the group as internal issues. After all, it is hard to write definitively about something that is still in the process of formation. The *sine qua non* of addressing these challenges is the ability to innovate when necessary. If the group is able to maintain its autonomy and permanency, I am confident that its current makeup will be able to find ways to overcome any obstacles. But there are larger implications of the group that transcend its temporality. Regardless of the future of the group, its existence thus far speaks to the efforts on both sides of the government-community divide to bridge the gap created by state-building. It represents how the process of “re-imagining community” might work by diverging from business plans and standard bureaucratic procedure and bringing initiatives into the communities – thus providing a very different setting and recognizing a very different style and source of authority. The model of the group itself could serve as a prototype for similar institutions that coalesce around other pressing issues, or “articulatory projects.” As the past chapters have shown, these projects are not necessarily about the singular topic that they may use as a focal point. Rather, I have hoped to show that such projects, when carried out according to the appropriate social and cultural protocols, open up valuable channels of communication that connect community concerns and knowledge to tribal governmental policy. I argue that this process is a necessary aspect of *indigenous* state-building.

Conclusion:

Articulating Indigenous Statehood

It is hard not to notice the proliferation of “nations” today throughout the media and pop culture – from the football team fan groups like the “Niners Nation” (San Francisco 49’ers), the “Tomahawk Nation” (Florida Seminoles), and, where I currently reside, the “Griz Nation” (University of Montana Grizzlies), to Rupert Murdoch’s “FOX Nation” and its satirical counterpart, Stephen Colbert’s “Colbert Nation.” With a simple Google search one sees scattered among these groups various official American Indian tribal nation websites, and wonders how best to describe the irony of it all. It seems that not only do we live in a world of states, where “[v]irtually every landmass on the globe is now the territory of some state” (Morris 1998: 1), but we are also living in a world of nations, where “nationhood” has become a matter of quick-and-easy group self-identification. Although on the surface this may appear as an issue of trivial trends in popular nomenclature, the widespread appropriation of the term “nation” carries with it the notion that nationhood can equate to simply membership in a group. It is not a far stretch to see how this mentality could bolster anti-Indian organizations’ perception of tribal nations as interest groups that argue for “special rights.”¹

Barring the obvious case of historical amnesia with regard to the treaties between the federal government and American Indian nations, the source of the “special rights” discourse that is often wielded by anti-Indian organizations resides in the liberal political tradition of individualism, wherein rights of groups are subordinated to those of the individual. In this view, all individuals enjoy equal status under the law; therefore, the assertion of so-called “minority rights” infringes upon this equality (Kymlicka 1995; 1996). Viewing American Indian political formations as interest groups attempts to redefine indigenous rights that were *reserved* by treaty as “minority rights” that can be contested under the rubric of “equal-footing” doctrines (Silvern 2002). But, as Silvern (1999) points out, the issue is more than just ideologically-based. At the center of the discussion is the question of the political status of indigenous nations – a question that remains a source of tension and general confusion both domestically and globally, and one that is caught up in the politics of geographical scale construction, which I discussed briefly in the introduction. Equal-footing doctrines and the contestation of “special rights” for American Indian nations are attempts by states (i.e., Oklahoma, Wisconsin) to “restructure the organization of geographical scale,” thus hierarchically diminishing the political status of indigenous nations (Silvern 1999: 640).

Whereas within the framework of U.S. federal Indian law, one could assume that tribes occupy a third geographical scale (in between that of the state and the federal), Coffey and Tsosie (2001) point out the glaring fact that the foundation of tribal political sovereignty as expressed in this model is dependent upon the very system that has worked to diminish such sovereignty – the U.S. courts. They argue: “To the extent that we litigate our right to sovereignty within this legal framework, we have lost the true essence of our sovereignty” (196). Their argument for “cultural sovereignty” as opposed to political sovereignty seems to suggest that indigenous nations occupy a much higher geographical scale, or perhaps should not even register within social constructions that lie outside of their own internal definitions of sovereignty.

¹ For example, Oklahoma’s “One Nation United” (www.onenationunited.com)

Recently, the tension associated with the political status of settler-state indigenous nations has been manifested in the language and actions surrounding the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Adopted on September 16, 2006, the UNDRIP is the product of nearly twenty five years of work and negotiations between U.N. member states and indigenous representatives from around the world. The Declaration is a promising document that seeks to “respect and promote the inherent rights of indigenous peoples.” As an international act of recognition and an affirmation of indigenous rights to self-determination, the UNDRIP represents a significant political accomplishment. Yet, the four opposing votes by New Zealand, Australia, Canada and the United States have highlighted both its strengths and weaknesses as a political document.² On the one hand, it is apparent that the document is strong enough to have struck a nerve with the four settler-states whose hegemony is most threatened by the existence of indigenous polities. On the other hand, as a document that ultimately must be approved by the states that occupy indigenous territories, it continues to reinforce the received construction of geographical scale and indigenous nations’ place on this scale.

With regards to indigenous political formations, in my reading, there are two articles in the UNDRIP that address this issue directly:

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

These articles broadly touch on indigenous governance issues in terms of *institutions*, noting their uniqueness and indigenous peoples’ right to “maintain and strengthen” them as such. The direct, but cautious, language of these articles points to important goals concerning indigenous governance, and encourages indigenous peoples’ pursuit of them. Yet, despite their directness, the Articles offer no promises to recognize indigenous institutions within the structure of the U.N. itself, nor do they possess any “teeth” for restructuring indigenous peoples’ political relationships with “the States.” This points to significant shortcomings in the UNDRIP concerning the perception of the political status of indigenous peoples.

In a broader discursive analysis of the Declaration, it is clear that the perceived place of indigenous nations on the political scale continues to be below that of the states in which they reside. This is evident in the repeated dichotomy between “indigenous peoples” and “the States” in the UNDRIP itself, and it is made even more explicit in the United States’ explanation of its vote against the Declaration. In an official response from the U.S. Mission to the United Nations, Advisor Robert Hagen stated, “We strongly support the full participation of indigenous peoples in democratic decision-making processes, but cannot accept the notion of a *sub-national* group

² Both Australia and New Zealand have since reversed their original votes to endorse the UNDRIP (although New Zealand only did so under specific provisions).

having a ‘veto’ power over the legislative process” (Hagen 2007, emphasis added).³ Indigenous nations in the United States continue to be perceived through a paternal lens as “domestic dependent nations.”⁴

As expressed by Coffey and Tsosie (2001) above, such qualifiers have historically framed the terms of the debate through unequal relations of power. Within the framework of federal Indian law, Chief Justice Marshall’s phrase “domestic dependent nations” comprises a large part of the present definition of tribal sovereignty. Yet, many indigenous nations identify the source of their sovereignty with their creation as a distinct people – a concept that, although rejected by the constructs of Western political traditions, is just as abstract and intangible (according to this paradigm) as the foundations of settler-state sovereignty today. Nevertheless, regardless of its source, tribal sovereignty has been upheld and defended largely by indigenous political structures that maintain and manage their relations with colonial settler-states. As I have argued, by engaging with colonial powers on these terms, American Indian nations have presented formidable political opposition to colonial policies, and in the process, have even changed the terms themselves. Such acts of resistance seem scantily represented in the UNDRIP, and certainly do not fit within Advisor Hagen’s hierarchical framework.

Of course, the political status of indigenous peoples has been a contentious issue since the early deliberations on the Declaration (Barsh 1994). But while by and large these debates have been addressed through deliberation and clarification (although without satisfaction from the U.S. and Canada, who have maintained their opposition), the issue of geographical scale continues to loom over the Declaration. The inability of the Declaration to formally recognize indigenous political institutions or to restructure indigenous peoples’ political relationships with “the States” reinforces the established construction of geographical scale (and indigenous nations’ place on this scale) in international law.

Reasons for this stem from what S. James Anaya (2005) has termed “state-centric” approaches to the acquisition of rights for indigenous peoples and the resulting U.N. member states’ fear of indigenous secession.⁵ Although Anaya notes that in most cases indigenous peoples do not wish to secede in order to form new independent states, he claims that a “state-centric” approach to indigenous rights – one that emphasizes the historical sovereignty of indigenous peoples – finds “little or no effective opening within the international system” (242). Indeed, it is logical to assume that “[b]ecause of legal, institutional, and political factors, the major international organizations necessarily favor the spheres of sovereignty asserted by their member states over any claim of competing sovereignty by a nonmember entity” (241). Conversely, Anaya notes that the U.N. has readily taken up claims that are grounded in the language of human rights “by virtue of the institutional energies that the United Nations and other international organizations have increasingly devoted to human rights matters and moral considerations over the last several decades.” As such, he argues that a human rights, or *realist*,

³ This statement is in response to Article 19 of the Declaration, which states that, “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 measures that may affect them.” Ironically, this article is not much different from the U.S. Executive Order 13175: “Consultation and Coordination with Indian Tribal Governments” (November 6, 2000), which establishes “regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies that have tribal implications.”

⁴ *Cherokee Nation v. Georgia*, 30 U.S. (5 Pet.) 1 (1831) at 27.

⁵ See also Williams (1990) and Tullberg (1995).

method for applying international law to indigenous claims is the most effective way of meeting the demands of indigenous peoples today.

While I agree that this method is effective to the extent that it is able to garner the most support from the U.N. and similar organizations (and therefore it can and has provided more immediate results, based on the *Awes Tingni*, *Maya*, and *Dann* cases he presents), Anaya's realist approach neglects the ongoing political struggles of indigenous peoples in terms of geographical scale. Anaya seems to imply that a human rights approach, as a path of least resistance, is preferable to complex and intense battles over sovereignty and state/nationhood. Perhaps this is so. I do not wish to undercut Anaya's long experience with such issues, nor his refreshing optimism and faith in the institutions of international law. But while the U.N. Declaration can work as an instrument to hold the member states accountable for infringements upon indigenous rights as outlined, it fails to work as a proper instrument for indigenous self-determination.

Although the Declaration was written in conjunction with indigenous representatives, it is a document that ultimately can only be approved (or rejected) by U.N. member states – many of which currently occupy indigenous territories. By this nature, and through the careful language throughout the document regarding indigenous governance institutions, it still upholds the overall interests of “the States” – namely, to maintain their hegemony as the only “true” sovereigns. The original opposition by the four settler-states further demonstrates the stern reluctance to acknowledge fully the colonial foundations of their own sovereignty – foundations that would not in the least live up to the current U.N. standards for human rights. Thus, while Anaya (2004: 4) claims that international law has developed from a colonial institution to one that is able to support indigenous peoples' demands (in terms of human rights violations), the institution is far from recognizing the equal status of indigenous polities and the structures that continue to fight for this status.⁶

The formation of indigenous states thus seems to be the proverbial elephant in the room. Indigenous people can and are forming states – as Biolsi writes, “The American Indian sovereignty movement of the last 30 years has kept this focus on indigenous nation-states at the center of discussions about Indian affairs in the United States” (2005: 254). Yet while recent studies have yielded important insights on the composition, legal standards, and everyday politics of tribal governments (Lopach et al. 1998; Wilkins 2007), there remains a lack of critical analysis on these formations in the context of statehood. The apprehension that has enveloped the subject seems to stem from a question of mimicry: How sophisticated (in terms of the dominant state form) can indigenous political apparatuses become without fully reproducing the coercive and dominating forces of modern states? I have hoped to show that looking at this question through a theoretical lens of articulation and transculturation reveals its peripheral nature. While we must be aware of the dangers of replicating unjust political structures, the articulation of these forms by indigenous nations (if the Cherokee Nation can serve as a model for this) involves a complex internal process of reconciliation. By and large, indigenous states must maintain a “dynamic equilibrium” with their national (tribal) community (oftentimes, depending on the socio-political makeup of an indigenous nation, this “community” is

⁶ For a more in depth discussion of the taken-for-granted character of settler-state sovereignty, see Tully (2000). Karena Shaw's work (Shaw 2008) on the origins of sovereignty in political theory and the implications for indigenous politics is also especially salient.

pluralized).⁷ Indigenous state building, as a process, must continually address this tension – call it a paradox, or a conflicting tendency – in order to maintain the legitimacy of its formations (i.e., government, bureaucracy). Indigenous articulations of the state form must also resonate with external political entities – be it the settler-state, or the post-colonial state – but doing so does not immediately imply that indigenous peoples have internalized the values, agendas, and methods that such states employ. Instead, the articulated forms are products of transculturation – the borrowing, synthesizing, then reasserting of the state form to advance different values and agendas, and potentially using different methods to do so.

The collective voice of such articulations in effect becomes a collective conversation within each indigenous nation – an imagination as a community about what it means to be a nation-state. The reason why the Cherokee Nation cannot expand to become an exact replica of a “high modern” state is because of its accountability to (and reliance upon) the network of decentralized rural communities that maintain the ability to exert a strong influence upon tribal politics. This is evident, as I have shown, throughout Cherokee political history, and it is why the Cherokee Nation is looking inward to these communities in order to better define itself today. In short, there is no Cherokee Nation without Cherokee communities, and the constant tension between them, rather than an annoyance or a persistent flaw, is actually a key aspect of indigenous (Cherokee) state formation. More importantly, it is how this tension is addressed that determines the efficacy of the political form. In this case, redistributing authority and building relationships between the tribal government and communities are vital steps to ensuring the successful articulation of a Cherokee state.

While the U.N. Declaration has weaknesses with regards to recognizing the capacity of indigenous polities, it is significant that the world’s four settler-states found the Declaration strong enough to reject it. The basis of this rejection warrants discussion. The U.S. rejection was not with regards to the Articles that I present above (5 and 34); rather, it was concerned more with issues of land, territoriality, and resources – represented strongly in Articles 26, 28, and 32. These Articles stress indigenous rights to “own, use, develop and control” traditional territories and their resources, and they call for redress in the form of restitution or compensation for expropriated lands.

Adviser Robert Hagen’s response (2007) highlights the complications of such a stipulation for the U.S.: “Article 26 appears to require recognition of indigenous rights to lands without regard to other legal rights existing in land, either indigenous or non-indigenous.” It is true that time has made neighbors and even family out of what was once an exclusively adversarial relationship between indigenous people and settlers. While tension does persist between groups, in many cases harmony is sought in lieu of conflict. Yet, with regards to non-indigenous property rights, the legality is debatable. The Allotment Era (1887-1934) created the current situation wherein most lands within most American Indian reservations are under non-Indian ownership. Whereas the Allotment Act itself was a suspicious piece of legislation, this period was also characterized by blatant instances of illegal land seizures by non-Indian settlers and the federal government (Debo 1940). Hagen takes for granted the current land tenure system in the U.S., which is a result of these illegal and unconstitutional acts. His failure to acknowledge

⁷ I borrow this term from Eisenstadt (1959: 308), who uses the term to discuss the need for bureaucracy to maintain a “dynamic equilibrium” with its social environment. This classifies it not as an absolute power, but one subject to the changing demands of its clientele (read: citizens).

this history illuminates how indigenous rights to land and resources within settler societies are discordant with a settler national consciousness. While Hagen's response is phrased in legalistic appeals to rights for all citizens, his viewpoint represents an unwillingness to deal with the aftermath of colonization. It raises the question: Does the passage of time erase accountability for historical injustices? Disappointingly, Hagen prohibits this conversation from occurring.

Returning to the work of Roger Maaka and Augie Fleras, their proposal for "constructive engagement" is a promising approach to settler-state indigenous politics, as it "goes beyond the legalistic (abstract rights) or restitutorial (reparations), however important these concerns are" (2000, 98). They write,

[A] constructive engagement policy is focused on advancing an ongoing relationship by taking into account shifting social realities. ... A dialectical mode of thinking is proposed under constructive engagement in which differences are not perceived as absolute or antagonistic, but as deeply interconnected in the sense of being held in tension within a larger framework. (ibid.)

Constructive engagement requires that polities (indigenous and non-indigenous) within a settler-state paradigm act as partners "jointly exploring postcolonial possibilities" (109). While Maaka and Fleras note that a significant difference between their case (Aotearoa/New Zealand) and other settler-states is the existence of multiple indigenous groups as opposed to just one (Maori), we can still draw from their proposal. Whereas in Aotearoa/New Zealand constructive engagement involves "two consenting majorities," we might view this proposal in the U.S. as *multiple engagements* that are able to contest the federal "rule of law" and the ongoing colonial system while participating as citizens (often American Indians are proud citizens) of the settler nation and working with common goals to build a better country.

An article in *American Thinker* (Bom 2010), a daily conservative internet publication, presents the potential endorsement of the U.N. Declaration by President Barack Obama as a threat to American politics. According to Bom's calculations, endorsing the U.N. Declaration will allow American Indians to secure some sort of stronghold over the U.S. political system and will then infiltrate its legislative process. Similarly, Adviser Robert Hagen remarked that tribes should not possess "veto power" out of the fear that American Indians will veto any and everything that "may" pertain to them (Hagen 2007). A common assumption that runs through these two assertions is that people make decisions based on maximized personal gain. This assumption is couched in liberal economics and game theory, wherein predictions about the market economy are made in accordance with this tendency (see, e.g. Ostrom 1990, 1-28). "Third space" or "secessionless" sovereignty, as well as "constructive engagement" all account for completely different understandings of potential political relationships between settler-societies and indigenous nations. These concepts allow for an indigenous "statehood" that recognizes the inherent sovereignty of American Indian nations instead of appealing to a neoliberal rights discourse wherein American Indian nations are interest groups requesting "special rights" over other citizens (much like Brown 2007 argues). The concepts also create a space for indigenous nations to assert *difference* based on this sovereignty while not sacrificing participation in the dominant society. Article 5 of the Declaration is commendable in that it attempts to articulate this concept.

Yet, in light of the finalizing disclaimer in Article 46, it is clear that the U.N. is very aware of how indigenous peoples threaten the territorial and political integrity of states. For the U.N. to maintain its own integrity with its member states, here it must reify them:

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

Under this rhetoric, indigenous nations are once again relegated to lesser political scales. The language inhibits possibilities for expressing indigenous statehood in the sense that indigenous nations can represent themselves as equal partners with the “sovereign and independent States.” This Article exemplifies how, if indigenous nations are to make meaningful strides in global politics, they must eventually assert their own forms of political identity instead of relying on good faith in the international state community. Expanding Bruyneel’s “third space of sovereignty” (2007) to the global scale, the question is how can indigenous nations carve out a political space from which to articulate difference while participating as equals with the global state community? Even the act of occupying a space within the U.N. is problematic, as this institution is dominated and controlled by Western states – many of which participated in the colonization of indigenous peoples. Where might we go from here?

The Organization of American States (OAS), although plagued with the same hierarchical dynamics of the U.N., offers a valuable perspective in that it recognizes the sophisticated political formations of indigenous nations as something to address explicitly. In an interview on the “Draft *American Declaration on the Rights of Indigenous Peoples*,” Leonardo Crippa, an indigenous representative to the OAS, stated, “[A] big particularity is the existence of indigenous peoples with their own judicial system, with their own government, with their own legislative organizations which is something that is occurring here in the U.S.” (Ove Varsi 2009). The extent to which these formations are recognized as entities worthy of inclusion in the OAS, rather than just vehicles for consultation, has yet to be seen. It is also noteworthy that Article 4 of the Draft American Declaration is identical to Article 46 of the U.N. Declaration.

The situation is not entirely bleak, but there is still work to be done. On the upside, indigenous politics are moving in positive directions, and in the U.S. we have seen recently the largest tribal leader summit in history under the Obama administration, held on November 5, 2009. While this could be seen as mere lip service, President Obama has made significant steps to hold federal agencies accountable to the “nation-to-nation” relationship with American Indian tribes, as outlined in former President Clinton’s Executive Order 13175 (2000). It is also promising that citizens of American Indian nations continue to occupy important positions within the U.S. polity, namely Kimberly Teehee (Cherokee Nation) as the senior policy adviser for Native American affairs within the Domestic Policy Council, and Dr. Yvette Roubideaux (Rosebud Sioux) as the first American Indian to serve as the Director of the Indian Health Service. Nevertheless, at the time of writing, President Obama has yet to endorse the U.N. Declaration. Anti-Indian organizations that use mantras like “equal rights for all” persist in many states with large American Indian populations. Further, many federal agencies missed the 90-day

due date given by President Obama at the November 2009 summit with regards to submitting a detailed plan to improve tribal consultation (Capriccioso 2010).

This dissertation has called for us to acknowledge that indigenous political formations offer both difference and engagement; playing the game while contesting its terms. I have intended to show that “indigenous states” represent not merely replications of a flawed form, but new articulations that have the potential to transform how we think about international relations. As such, instead of discrediting or abandoning tribal governments, it is important to study the internal deliberations of indigenous nations that choose to create state-like governments. How are they engaging with their citizens and communities as these forms expand in order to maintain legitimacy while protecting tribal sovereignty? Perhaps as American Indian nations assert a third space of sovereignty through indigenous states, the U.S. and the global state community will begin to reassess their relationship to them. Perhaps the development of indigenous states will create new opportunities for indigenous nations to change the nature of global politics, offering different standards that are not based in the philosophies of imperial states or centered on imperial control.

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