



Medium of Blood Verifiable Ancestry as a Conduit of Cherokee National Identity

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Blood quantum, the measurement of American Indian ancestry possessed by members of America's Indigenous nations, is most often considered a rubric utilized by the federal government in an oppressive form, or by tribal nations themselves as standards of tribal citizenship requirements. In this essay, the authors recontextualize blood as a medium of national identity within the context of the Cherokee Nation of Oklahoma. Such decentering, as presented here, illuminates Cherokee nationhood in ways that have significant political import.

In his November, 2011 inaugural address, Bill John Baker, Principal Chief of the Cherokee Nation of Oklahoma, stated that the tribe's status as a nation on equal terms with the United States government had been

earned with “our resolve, our blood, and our tears”(Baker 2011). While the statement may seem, to many Westerners, to be a political platitude referencing sacrifice and fortitude, the comment – specifically the reference to “blood” – had especially pertinent meaning for Baker’s audience of Cherokee tribal members. As anthropologist Circe Sturm (2002) has argued, the concepts of “blood” and “blood quantum” – the percentage of verifiable Indian ancestry a member of an American Indian tribe possesses – are key concepts to Cherokee identity (203). Cherokee author and scholar Robert Conley (2008), however, contends that blood quantum, and the *Certificates of Degree of Indian Blood* (CDIBs) issued by the U.S. government to identify each tribal member’s blood quantum, do not designate Cherokee identity. Rather, he says, they designate a federally-imposed identity (153) that necessitates exclusion of many people who, under different criteria, would be considered Cherokees. Conley would likely agree with Casey R. Kelly (2011), who asserts that blood-centred identities have had detrimental effects on Cherokees and other American Indian tribes (242). Kelly does allow, nevertheless, that “blood may be a strategically necessary discourse to protect the categories that provide some protection for American Indians” (242).

Much discussion of Cherokee identity focuses on blood as a rubric – a standard by which one’s “Cherokee-ness” is determined. In this essay, however, I resituate *blood as a medium* – a conduit of national identity from the pre-assimilated Cherokee Nation to the modern. Such decentring from the previously accepted discourse of blood constitutes an example of what Eugene Thacker (2004) has called “bio-media,” instances in which “biological components and processes are technically recontextualized in ways that may be biological or nonbiological” (5-6). Certainly, within and between living bodies, blood is always a medium. Oxygen and elemental nutrients are transported through blood, as are ailments such as Hepatitis C and AIDS. As a bio-medium, blood “never stops being biological” (Thacker 2004: 14), but takes on nonbiological mediations that may be “social, cultural, political, or economic” (11). I contend that, for Cherokees, blood mediates a tribal identity that has ramifications specific to the political realm. To construct this

recontextualization, I will first provide an overview of the history of the relationship between the Cherokees and the United States government in the twentieth century, as it is that relationship which first positioned blood as a dominant Cherokee discourse. I will then discuss the seven-decade rupture in Cherokee nationhood, and demonstrate how blood serves as a conduit of identity to repair that federally imposed chasm. Finally, I will discuss implications of this recontextualization of blood as a medium of Cherokee national identity.

Discourse of blood is common among many modern indigenous nations in the United States, and many of the implications I make in this essay may be generalizable beyond the Cherokees. However, it should be noted that each of the more than 500 Indigenous collectives that have contended with the U.S. government has faced obstacles and opportunities unique to that collective (Mihesuah 1998: 24; Debo 1940: 7), and much of the political context presented herein is specific to the Cherokee Nation of Oklahoma.

Landowners by Blood

Throughout the nineteenth century, Cherokees interacted with the United States on a government-to-government basis. Even the removal of the Cherokees from their ancestral homelands in the south-eastern U.S. to what is now north-eastern Oklahoma – commonly known as the Trail of Tears – was in fact a trade of lands contracted through the Treaty of New Echota in 1835 (Debo 1940: 5–10). The tribe was designated – by Cherokees and the U.S. government alike – as the “Cherokee Nation,” and exhibited all of the criteria Michel Foucault (1997) sets forth for a nation: a multitude of people, inhabiting a defined country circumscribed by frontiers, who obey the same laws and government (142). Although the Cherokees were a modernized society by nineteenth century Western technological standards, their land – what is now the 14 north-eastern-most counties of the state of Oklahoma – was owned in common, and they were ruled by an elected government.

That government-to-government relationship was negated, however, with the passage by the U.S. Congress of the Curtis Act of 1898. That legislation, with no input from tribal governments, eliminated the nation status, or nationhood as I will henceforth call it, of the Cherokee Nation and the four other Indigenous nations – the Choctaw, Creek, Chickasaw, and Seminole – that constituted what had been known as Indian Territory. The act mandated that tribal members become citizens of the United States and the state of Oklahoma, which was accepted into the Union in 1907. The primary technology of this assimilation of Cherokees into American culture was land allotment, a process by which tribal members were given 80 acres of land to cultivate as individuals. Thus, the communal aspect of land oversight that had existed under the Cherokee Nation was eliminated as tribal members became, by federal fiat, Westernized into new statuses of landowners.

The process by which Cherokees were deemed capable of operating as landowners was, in fact, the impetus for the emphasis on blood that still exists among tribal members today. The Curtis Act stipulated that, in order to determine eligibility for land ownership, a census – called the Dawes Rolls, after Henry Dawes, the U.S. senator who engineered the land allotment process – of people living in the Cherokee Nation would be taken. That census was divided into three categories: Cherokees by blood; whites intermarried with Cherokees; and Freedmen, former slaves and descendents of slaves who had lived in the Cherokee Nation prior to the Civil War (Sturm 2002: 79). Individuals within all three categories were eligible to receive land allotments under the Curtis Act, but there were specific restrictions on Cherokees deemed to be – by phenotype – one-half or greater Cherokee blood. Land allotted to those Cherokees was held in trust by the federal government, and could not be sold or taxed. This restriction – seemingly odd by modern standards – was “based on the eugenic notion that ‘competency,’ the ability to understand the complex and shifting system of land tenure in Oklahoma, was somehow correlated with degree of race mixture” (Sturm 2002: 79).

This process of determining one's competency as a land-holding citizen according to ancestry is quite clearly an exercise of what Michel Foucault (2004) calls "bio-power" – the "set of mechanisms through which the basic biological features of the human species became the object of a political strategy, of a general strategy of power" (1). While the overt purpose of the Dawes Rolls and land allotment was to assimilate Cherokees into the broader American population as citizens and landowners, historian Patricia Nelson Limerick (1987) sees an even more totalitarian colonization strategy in the bio-politics of American Indian blood quantum: "[S]et the blood quantum at one-quarter, hold it as a rigid definition of Indians, let intermarriage proceed as it has for centuries, and eventually Indians will be defined out of existence. When this happens, the federal government will be freed of its persistent 'Indian problem'" (338).

The exercise of bio-power by the U.S. government in forcing private land ownership on Indigenous Americans has been described as the "worst nightmare, the ultimate threat to religious, social, and political identity" of American Indian tribes (Nabokov 1999: 232). So there is some irony in the fact that the same standard of blood used as a rubric to determine competency of American Indians as U.S. citizens has been adopted by the tribes themselves. In the 1930s, the attitude of the federal government toward American Indians began to shift somewhat. After "progressive degradation of the Indian spirit by the destruction of native institutions [...] it began belatedly to dawn upon those who were responsible for the policy that the Indians were not exactly prospering under its execution" (Debo 1940: 351). The response by the federal government was not, however, a removal of governmental oversight of indigenous groups, but rather, more legislation.

In 1936, Congress passed the Oklahoma Indian Welfare Act, which stipulated that any tribal members in Oklahoma who had been listed on the Dawes Rolls, or such persons' descendants, could organize in groups of ten or more – under the auspices of the federal government – for the purpose of conducting commerce. An account totaling \$2 million was set

aside by Congress to be provided to any such organizations in the form of loans. In other words, tribal members were allowed to organize, not within a context of a culture or nation, but rather as a corporation. While the allowance of reorganization may appear, on its face, to be a generous provision by Congress, the act actually imposed even more Western standards upon tribal members. Now, instead of being just landowners, any identification they maintained as Indigenous Americans, vis á vis the U.S. government, was required to be based in entrepreneurialism.

One group of Cherokees, the United Keetoowah Band of Cherokee Indians of Oklahoma (UKB) was granted a corporate charter by the federal government in 1950, under the provisions of the Oklahoma Indian Welfare Act. The purpose of that corporation, as stated in their corporate charter, is to:

"advance the standard of living of the Band through the development of its resources, the acquisition of land, the preservation of existing landholdings, the better utilization of land and the development of a credit program for the Band."

The UKB still exists today, and membership in the band requires a one-quarter blood quantum. That is, a member may not have more than two generations of non-Cherokee blood introduced into their ancestry since the Dawes Rolls were completed in 1906. Thus, the rubric of "Cherokee-ness" fabricated and utilized by the federal government to determine fittedness as a landowner was inverted and implemented as a rubric of organizational identity for members of the UKB.

The most significant twentieth century act of Congress concerning Cherokee nationhood, however, did not occur until 1970, when the Principal Chief's Act was signed into law by President Richard Nixon. That act gave tribes the authority to elect their own tribal leaders, thus ending almost 70 years of non-nation status for the Cherokees. Under the new Cherokee constitution, ratified by tribal members in 1975, membership in the Cherokee Nation is available to anyone who can trace his or her ancestry to a signer of the Dawes Rolls. However, unlike most other reconstituted tribes in the U.S., the Cherokee Nation does not impose a

blood quantum (Ridge 2011). Thus, tribal membership is not based on a standard of racial purity, but something else entirely. That “something else” is, I contend, a bio-mediated link to the last Cherokees to enjoy national status before the federal imposition of U.S. citizenship and capitalistic economic standards on the tribe. While the dual national citizenship status of modern Cherokee Nation members makes their Cherokee national identity less salient, perhaps, than it may have been for pre-Curtis Act tribal members, it is a status that – without the Principal Chief’s Act, and, ironically, without the Dawes Rolls – would be virtually impossible to maintain.

Ruptured National Identity

The effect of the federally mandated allotment process on the Cherokee Nation was neither accidental nor ambiguous. Both the tribal nation and the cultural practices attendant to its nationhood were, quite simply, to be eradicated, albeit in a completely bloodless manner. In an 1885 address to the Lake Mohonk convention – an annual gathering of east coast humanitarians concerned with the “Indian problem” – Senator Henry Dawes spoke of his recent visit to the Cherokee Nation:

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. It built its own capitol, in which we had this examination, and it built its schools and its hospitals. Yet the defect of the system was apparent. They have got as far as they can go, because they own their land in common. It is Henry George’s system, and under that there is no enterprise to make your home any better than that of your neighbours. There is no selfishness, which is at the bottom of civilization. Till this 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 (Debo 1940: 21–22).

Two years later, Congress passed the act bearing Dawes’ name, the Dawes Severalty Act of 1887, which allotted 160 acres to heads of

American Indian families, 80 acres to unmarried adults, and 40 acres to children. The remaining land was opened to homesteading whites. The Cherokee Nation and the other four "Civilized Tribes" in Indian Territory were exempted from that act, but the Curtis Act extended allotment proceedings to those nations in 1889. It also stipulated that, after July 1, 1898, no Cherokee Nation government official would have "any authority whatever." Thus the nationhood of Cherokees and their cultural practice of communal land-holding were eliminated in one fell swoop.

For 77 years, Cherokee nationhood was all but extinguished. After the deaths of the final chiefs before the allotment process, the chiefs of all the Five Civilized Tribes were presidentially appointed for any administrative purposes, but those appointments were undertaken, according to Debo, "irregularly," and were "frankly regarded as spoils by Oklahoma politicians" (258). While individual land ownership by citizens of Oklahoma – Indigenous, Euro-American, African American, or otherwise – precluded a return to communal Cherokee land-tending practices, Cherokee nationhood was restored by the Principal Chiefs Act of 1970 and the Cherokee Constitution of 1975. It is the latter document which first situated blood as a medium of national identity for Cherokees. In Article III, the constitution stipulates that "[a]ll members of the Cherokee Nation must be citizens as proven by reference in the Dawes Commission Rolls." Thus, modern Cherokee Nation members were bound to the final Cherokees to enjoy tribal nationhood before Indian Territory was eliminated. By blood – as racially quantified by the Dawes Rolls – the rupture of Cherokee nationhood was mended.

What, one may justifiably ask, is gained from contextualizing blood as a bio-medium, rather than as the more commonly accepted conceptualization of blood as a rubric of identity (Conley 2008; Kelly 2011; Sturm 2002)? An answer to that may be found through an examination of one of the most recent controversies involving blood and its inextricable relationship with Cherokee identity. In 2007, U.S. Representative Dianne Watson introduced H.R. 2824, a bill severing government-to-government relations between the U.S. and the Cherokee Nation until the tribe

recognized Freedmen, descendants of slaves owned by Cherokees before the Emancipation in 1865, as citizens of the tribe. Cherokee voters, earlier in 2007, had denied Freedmen tribal membership by approving an amendment to the Cherokee Nation constitution that required members of the tribe to be descendants of signers of the Dawes Roll of Cherokees only, not the other two Dawes Rolls that were also compiled in the early twentieth century – those listing Freedmen and intermarried whites who were living in the Cherokee Nation when the tribe's communal lands were allotted to individuals. In one sense, that vote fine-tuned the blood-medium of Cherokee national identity. Yet, in another, it denied tribal membership to people who, under different criteria – descendants of signers of all the Dawes Rolls, for example – would be considered Cherokee citizens.

According to Rep. Watson, by denying tribal membership to the Freedmen, the Cherokee Nation was violating the Treaty of 1866, an agreement between the U.S. government and the pro-Confederacy Cherokee Nation at the end of the Civil War. That treaty had provided tribal membership and property to freed slaves of Cherokee slave-owners. The Freedmen controversy, on its face, appears to be a simple violation of treaty agreements by the Cherokee Nation. The issue is problematized, however, by the 77 years of Cherokees' non-nationhood status.

When Cherokee fullblood Redbird Smith spoke before U.S. senators to protest the Curtis Act, he "showed the Senators a photograph of the original patent to his tribe, and presented an eagle feather that had been given to his great-grandfather at the negotiation of the Removal Treaty [of New Echota, the 1835 treaty that removed the Cherokee Nation from their ancestral homelands and provided lands in Oklahoma to the tribe]" (Debo 1940: 153). The senator chairing to committee to which Smith spoke responded:

"Tell him that Congress in order to protect him in his farm and the possession of it forever has provided a way for him to make a permanent home as the result of his work; that we all hope he will agree to the after

treaties that were made and thus preserve what he now has." (Debo 1940: 153)

In short, Congress, at the time of the Curtis Act in 1898, was not concerned with adherence to any treaties they and their predecessors had signed with the Cherokee Nation. Their primary issue was transitioning Cherokees into land-owning citizens of the United States. Yet, in 2007, Congress was once again concerned with those earlier treaties, specifically the Treaty of 1866. Implicitly, Rep. Dianne Watson and her fellow-authors of H.R. 2824 were recognizing the Cherokee blood-medium spanning over seven decades of tribal non-nationhood, and holding modern Cherokees to the agreements made by pre-Curtis Act tribal members.

Such recognition by the federal government of the blood-medium between the pre-Curtis Act Cherokee Nation and the twenty-first century Cherokee Nation has no small consequences. Such a concession would, in effect, be a recognition of the modern tribe as the very same one that agreed to the Treaty of 1866. The 77 years of Cherokee non-nationhood would essentially be negated. Such recognition raises the question of subsequent legal action by the Cherokee Nation demanding adherence by the U.S. government to conditions of other pre-Curtis Act treaties between the two nations. The 1835 Treaty of New Echota, for example, provided seven million acres of land that is now the north-eastern corner of the state of Oklahoma to the Cherokee Nation exclusively. Re/adherence to that treaty would drastically modify the political landscape of an area of the U.S. Mid-west larger than the state of Massachusetts. While H.R. 2824 failed to pass Congress, the citizenship of Freedmen in the Cherokee Nation continues to this day to be a point of contention between the U.S. government and the tribe (Snell 2011).

Conclusion

The Constitution of the United States contains a clause that gives the power to regulate "commerce" with "The Indian Tribes" exclusively to

Congress. While the Constitution does not specifically define the term “tribe,” the Supreme Court has, through years of legal precedence, come to require “that (a) the group have some ancestors who lived in what is now the United States before discovery by Europeans, and (b) the group be a ‘people distinct from others’” (Strickland 1982: 5). The distinction “from others” based on blood ancestry, however, “propelled by nineteenth century scientific racism and implemented by bureaucrats, is at odds with the still-surviving kinship and cultural traditions of native peoples” (Jaimes 1994: 48; see also Conley 2008 and Kelly 2011). It is, however, a racism forced upon American indigenous nations by the U.S. government, one that both limits and facilitates exertion of indigenous power in relation to the federal government. As I have argued here, blood ancestry provides a technology of empowerment for Indigenous nations by serving as a transcendence of the historical era when the U.S. government’s primary goal in relation to tribes was to absorb them into the broader American culture, economy, and government.

It should never be forgotten, however, that reliance on blood for tribal national identity also has potentially detrimental effects. For example, the Indian Arts and Crafts Act, a federal law passed in 1990, makes it a crime to publicly self-identify as an American Indian for the purpose of selling artwork without documented indigenous blood ancestry, or for a gallery to exhibit artwork created by someone who self-identifies as such but does not have documented indigenous ancestry. Passed ostensibly to protect artists who are members of indigenous American nations from competition with imitators, the law applies only standards of indigenous nationhood as prescribed by the blood ancestry standards originally established by the Dawes Rolls (Jaimes 1994: 52). It is certainly possible for a person to have grown up in a Cherokee community, immersed in traditional Cherokee culture, and still not be legally able to self-identify as a “Cherokee artist,” simply because his or her ancestors did not, in the early twentieth century, sign the Dawes Rolls. Such an artist may be recognized as a Cherokee, socially, culturally, and artistically, but his or her blood will never mediate Cherokee nationality. Thus, Cherokee Principal Chief Bill John Baker’s inaugural statement, cited in the opening

passages of this essay, take on a polysemic quality. Distinct Cherokee national identity has indeed been paid for in blood, but not only by the estimated one-quarter of Cherokee Nation members who died on the Trail of Tears. By blood, or more specifically, by the lack thereof, many have been sacrificed so that national identity could survive over seven decades of near-extinction during the twentieth century.

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