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The Shifting Map of Cherokee Land Use Practices in Indian Territory

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The traditional concept of land ownership in the Cherokee Nation underwent a drastic change in the nineteenth century that impacted social and political institutions, and had lasting effects on the environment. This conceptual transformation had its roots in the eastern Nation, but continued and intensified as the Cherokees reestablished themselves in Indian Territory after Removal.

Before white contact, Native Americans had attitudes toward land tenure and use that differed markedly from European systems. While Europeans regarded land as a commodity to be owned by an individual, a government, or a family, ownership implying the right to use land and its resources, to control these resources, and to transfer the rights to the land, and take advantage of other opportunities such as leasing and charging rent for the land's use. The Native view, however, did not recognize the concept of ownership, but rather regarded land to be occupied and used based on the immediate needs of small groups of people, families, clans, or small settlements. Land was not inheritable—a mainstay of European land tenure—nor was it bought or sold. Large tracts used as hunting grounds were often shared, a common practice in the Great Lakes

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area and followed in other places as well. Thus land disputes among tribes did not occur often until the coming of the whites.

Cherokee law provided for individuals to stake a ranch or farm on unoccupied land anywhere in the Nation. Individuals lay claim to a tract by erecting “improvements,” that is buildings, fences, or storage facilities. A major stipulation of this policy was that if the tract went unused for two years, ownership would revert back to the community. Some wealthy Cherokees got around this by leasing their improvements—not the land—to non-Cherokee tenants, a permissible practice. Originally, each Cherokee family built its small home and farmed the land around it, growing enough for their own use, gathering nuts, seeds, and berries from the general area, and hunted and fished in a perhaps wider radius. With white contact, and especially the “Civilization” policy of the federal government introduced in the latter years of the eighteenth century, emulation of white practices began among certain Cherokees. John Ross, John Ridge and “Rich Joe” Vann, among others, began to accumulate improvements and thus controlled large tracts of Cherokee lands. They raised more crops than their family could use along with herds of cattle and other livestock. The “surplus” food thus produced was then sold, and in this manner, wealth produced. To augment the labor for these endeavors, slaves of African descent were employed; these people were bought with agricultural income and from money collected from turnpikes, ferries, and other enterprises controlled by the rising Cherokee middle class. Members of this class included many persons involved in the Nation’s government and foreign affairs; the impact on Cherokee national policy of a mindset that favored a market economy thus far has not been measured, but it was doubtless a strong influence.

The split between the ways in which the land was used has been often characterized as a full blood versus mixed blood situation. It is important to understand these distinctions in a Cherokee context, as I have pointed out in other works. The term “full blood,” as used by the nineteenth-century Cherokees, was not an issue of blood quantum, but rather indicated a person who was raised and educated in the traditional manner and, very importantly, spoke the Cherokee language at home and during intercourse with neighbors. The full blood most often embraced traditional ways of living. The mixed blood was a person who had been educated in the white manner that is, taught to read and write English and given generally the same curriculum as pupils in white schools. This person used English as his or her primary language at home and in business dealings. It was possible under this definition for a mixed blood to have a higher percentage of Cherokee ancestry than a full blood, although it would not be commonplace. Given their education and background, many mixed bloods were open to adopting at least some of the practices of white people.

The land use and tenure pattern that started in the eastern Nation continued in Indian Territory after Removal. In the West, however, the landscape helped to widen the disparity between the commercial farmers and stockmen and the subsistence farmers. The Cherokee Nation boasts a variety of landscapes, ranging from the rolling, wooded hills of the eastern and southern regions to the vast grasslands of the northern and western areas. So some land is more hospitable to large holdings and other land to smaller farms. The hills and valleys drew the subsistence farmers who grew row crops and raised a few cattle and hogs while the grasslands attracted those interested in large-scale livestock raising and grain production.

Moreover, contact with white neighbors in the adjoining states made it clear that for those interested in entering the commodity markets, large land holdings were necessary. The ranchers of Texas who drove vast herds of cattle through the Nation on the way to feed lots and rail heads in Kansas, generated profits for the cattle ranchers. Other examples from white communities showed people making money from crops and livestock rather than using them as food for their families. This was not lost on Cherokees wishing to enter the market economy; at the same time, Cherokees were being exhorted to adopt white ways of doing business and to abandon traditional means of supporting oneself. The people got a first-hand look at extensive cattle-raising operations with the controversial leasing of the Cherokee Outlet, a largely unsettled western portion of the Nation that extended along the southern border with Kansas from the 96th meridian to the 100th and was 60 miles wide. In the 1880s, a group of white ranchers, calling itself the Cherokee Strip Live-Stock Association (CSL-SA), paid the Nation for the privilege of grazing their animals on the rich prairie grasses of the district. While many Cherokees opposed the agreement, the government thought this a good way to control the illegal grazing that had taken place before, adding to the tribal government coffers at the same time. The Cherokees had tried to use a permit system and to tax cattlemen based on the numbers of cows grazing in the Outlet, but the vast size of the area made enforcement very difficult. The lease agreement seemed to solve the problem, and of course, the large amounts of cash involved—\$100,000 per year—caught everyone's attention (Dale).

Many Cherokees, including Robert W. Owen and E. C. Boudinot, opposed the lease, maintaining that the Outlet should be preserved for the use of Cherokee cattlemen and entrepreneurs. These two men, both from prominent Cherokee families, were educated in the white manner and had determined that the future of the Nation lie in embracing the market economy. They argued that Cherokees should be exploiting the natural riches of their lands, not the whites. Many other Cherokees agreed with this assessment. This capitalist mindset, the

view dominant in white American society in the latter half of the nineteenth century, affected other social and political issues of the day as well.

Overshadowing all other issues in the history of Indian Territory in the second half of the nineteenth century was the usurpation of Indian communally-held lands by a combined force of business interests, railroads, land-hungry white settlers, and the federal government. This issue was closely tied to land tenure and use. From the 1860s, various attempts were made to enact laws that would withdraw treaty provisions and to allot land in severalty, thus eliminating communal ownership and placing small tracts in the hands of individual tribal members. "Surplus" land could be then opened for settlement and exploited for natural resources. As pressure for allotment increased, most of the tribes resisted, with the Cherokee government strong in its defense of its traditional land use practice. However, this is not to say that allotment was resisted universally by the Cherokee population; large numbers embraced the idea of allotment, especially those who had adopted the market economic philosophy and who sought to take possession of large tracts of land to support their operations. These Cherokees were, in turn, supported by the railroad interests as the market commodity producers and the transporters had similar economic interests. So while the majority of Cherokees and nearly all the subsistence farming full bloods opposed allotment, a significant number of mixed bloods supported it.

A policy which arose at least partially because of the dominant society's determination to open the Indian lands to white settlement led to an important policy in the Nation. This policy, instituted after the Civil War, encouraged Cherokee citizens to move away from subsistence farming and adopt white agrarian practices, that is, growing crops and raising livestock to sell in the markets rather than consume on the farmstead. *The Cherokee Advocate*, the national newspaper, was used to publish items outlining best agricultural practices as gleaned from white newspapers and other publications. In the prairie areas, the Cherokee newspapers often published brands, the symbols burned into the hides of animals by ranchers to identify their property on the open ranges. Leaders of Cherokee society encouraged entrepreneurship in individuals and the growth of towns, in many ways mimicking practices in small white towns across the country. Statistics highlighting the increase in market-centered farms and ranches could then be used by Cherokee delegates in Washington to argue against allotment and opening the Nation to white settlement. So political forces as well as economic ones were in play helping to bring about a change in Cherokee land use practices.

One of the reasons Cherokee officials were urging their constituents to engage in market agrarian practices was to prevent whites from accusing the Indians

of “not using” land that could be put into wealth and tax producing enterprises by white farmers and ranchers. This policy was, on a larger scale, very similar in the arguments the Cherokees had made in the East. The results, unfortunately, were similar as well. Land hungry whites, pushed west by the high price of land in the East as well as government policies such as the Homestead Act, cast envious eyes on the prosperous ranches and farms dotting Indian Territory and increased their pressure on representatives and other state and federal officials to open the lands to white settlement. So just as some Cherokees had looked enviously to their white neighbors and the wealth accrued from market farming and ranching, so did the landless whites now look enviously at the Cherokee agrarian enterprises.

Along with those whites calling for allotment in severalty, the railroad interests were regarded as enemies of the Nations of Indian Territory. But contrary to popular belief, the Cherokee Nation in the early 1860s actively supported the building of railroads through Indian Territory, until it became clear that the Indians would have little say in the extent or placement of the lines. The Cherokee National Fund and the Cherokee Orphan Fund invested heavily in Union Pacific Railroad bonds, ironically at the time the railroad was cutting timber illegally on Delaware land in Kansas. At one point, the Nation planned to build a railroad of its own through the Nation, but federal government opposition and lack of financing caused them to withdraw. It should be noted that railroads had two primary purposes in the West: first, to facilitate the movement of white settlers and homesteaders into the region, and more importantly, to move raw materials such as cattle and grain to market while bringing in manufactured goods for sale. Money accrued from market agrarian practices was necessary to buy the manufactured goods thus shipped in.

While we know that some Cherokees embraced the market economy and its concomitant dependence on cultivating or grazing large tracts, it is difficult to determine exact amounts of land controlled through the improvement system in the Cherokee nation since no records exist that contain this data. Since use of the land was not taxed, could not be inherited, and could not be mortgaged, no reason existed to create records for those purposes. However, the Cherokee did issue permits for tenants to live and work on land under the control of Cherokee citizens who controlled a tract of land. Tenant workers, of course, were not needed or used, for the most part, by subsistence farmers. Therefore, by examining the Cherokee Nation records of permits issued to individuals, a fair idea may be reached of the number of Cherokees with large holdings engaged in the market economy.

A perusal of the tenant permit records of the Cherokee Nation shows that in the 1870s, when permits were required, the number of tenants was relatively

small. Many of the permits were requested during this time by women, leading to the conjecture that many of these had been widowed in the Civil War and were left with farming or ranching operations not easily worked by the woman alone. As time went on, however, the number of permit applications increased until by the 1990s they had quadrupled in some districts. Moreover, the same men were applying for permits for multiple tenants instead of just one or two as was done earlier. Each permit request had to have two signatures in addition to that of the requester; these were to guarantee the terms of the permit. By the 1990s, the guarantors were most often persons who requested permits themselves, suggesting that a class of large land holders was beginning to form (Cherokee National Records).

In conclusion, a number of factors played into the changes in Cherokee land use practices. Proud to be numbered among the Five Civilized Tribes, the Cherokees embraced the federal “civilization” policy early on. One of the avowed reasons for this course of action in the early years of the century was to demonstrate that the Cherokee people were not irresponsible savages, but rather a group who “used” the land, thus demolishing the arguments of those whites who claimed that Indians did not employ the land usefully and thus should relinquish it to people who would do so. As the young John Ridge wrote to Albert Gallatin, Cherokee men worked their farms while the women sewed, weaved, spun, and cooked. He points out that many held African slaves and raised cotton, emulating their white neighbors. “Cherokees on the Tennessee river have already commenced to trade in cotton and grow the article in large plantations and they have realized a very handsome profit. All those who have it in their power are making preparations to grow it for market and it will soon be the staple commodity for the Nation” (Ridge). So some, at least, of the Cherokees were in 1826 entering the commodity market, where large tracts of land controlled by one farmer or enterprise was desirable. Unfortunately, as the land became more valuable to the Cherokees, it became more attractive to the whites. Thus, ironically, the “civilizing” process proved to be a major cog in the machinery that was separating the Indians from their land.

As we have seen, the lure of profits that might be made from commodity crop and livestock raising was another factor. Whites engaged in these practices in close proximity to the Cherokee Nation in the West served as examples to the Indians and also as models for how best to carry this out. Further, Cherokee policy after the Civil War was to encourage agrarian activity on a large scale, offering encouragement to those who chose this way of life.

The impact of Cherokee land use practice on the physical environment, while gradual, was profound. In some other Indian lands, such as the Menominee Reservation in Wisconsin and the Navajo, Hopi, and Apache regions of the

southwest, the land underwent no drastic changes until very recent years. In the Cherokee Nation of Indian Territory, however, the land quickly was transformed from wooded valleys and pristine prairie into a landscape nearly identical with that of white-settled land nearby. Trees were cut down in the river valleys to allow for extensive farming of commodity crops which could be sold all over the region. Similarly, on the prairies, great herds of cattle were introduced to graze and sometimes overgraze the grasslands. Native grasses gave way to plants introduced by ranchers that were nourishing to the cattle, but often proved to be not resistant to drought, indigenous pests and plant diseases, and extremes of temperature. The result for the Cherokee Nation as well as the surrounding region where similar land use practices were in place was the devastating Dust Bowl of the 1920s and 1930s.

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Summary: Since time immemorial, the Cherokees held their land in common; each tribal member was entitled to control as much land as he needed to farm or to raise animals, but title to the land remained with the Nation. With Removal to Indian Territory, however, changes in land use patterns began to emerge as many were drawn to the practices of their white neighbors. The whites, of course, took individual title to the land, especially after the Homestead Act of 1862. Many white farmers and ranchers became entrepreneurs, investing in land, equipment, livestock, and hiring workers. Many became prosperous, and this was not lost on the Cherokees. Accordingly, individual Cherokees began to use the "permit laws" to hire workers. Enacted primarily to offset labor shortages after the Civil War, these Cherokees, mostly mixed bloods, exploited the law to expand their land holdings, and thus sought to profit like their white neighbors. The practice ended when allotment was forced upon the Cherokees and other indigenous nations in the final years of the century.

Résumé : De tout temps, les Cherokees ont détenu leurs terres en commun ; chaque membre de la tribu avait le droit d'utiliser autant de terres qu'il en avait besoin pour l'agriculture ou l'élevage, mais la propriété demeurait celle de la Nation. Après la déportation vers le Territoire Indien, des modifications dans l'usage de la terre commencèrent à apparaître alors que de plus en plus de Cherokees s'intéressaient aux pratiques de leurs voisins blancs. Les Blancs, bien entendu, possédaient la terre individuellement, surtout après le passage du Homestead Act de 1862. De nombreux fermiers et éleveurs blancs devinrent des entrepreneurs, investissant dans la terre, l'équipement, le bétail, et employant du personnel. Nombre d'entre eux devinrent prospères, ce qui n'échappa guère aux Cherokees. Ainsi, certains Cherokees commencèrent à utiliser les « lois de licences » pour embaucher des travailleurs. Ces Cherokees, la plupart métissés, profitèrent de ces lois, passées en priorité pour faire face au manque de main-d'œuvre après la Guerre de Sécession pour agrandir leur propriété foncière, afin de prospérer autant que leurs voisins blancs. Cette pratique s'arrêta lorsque la parcellisation des territoires fut imposée aux Cherokees et aux autres nations indiennes à la fin du XIX^e siècle.