

Citizenship and the Good Life: Cherokee and American Regimes in Conflict

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The southeastern Indians, noted Irish trader James Adair in 1735, each “distinguish[ed] himself by his respective family” and regarded his “own particular lineal descent” above any other.¹ These communities predicated on kinship and clan membership perplexed European colonizers, whose own ideas of societal belonging were emerging from the Enlightenment. While the British Empire treated as *subjects* anyone living in its colonies, including indigenous peoples, “after 1776, Americans distinguished between citizens, ‘who collectively possess sovereignty,’ and non-citizens such as Indians” who were not consenting members of the republic.² From this classification came centuries of assimilation, removal, and termination policies designed to abrogate indigenous ideas of belonging in favor of US liberal citizenship.

Studies of the theoretical gap between how the United States and indigenous nations conceive of belonging to the political community remain dominated by a certain liberal strand in

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American political thought.³ Indigenous thought is often explained through an American lens, and differences are described in a manner that makes American political thought the water in which they swim. We argue that the traditional liberal lexicon is ill-suited to understanding the particularized nature of tribal membership. A more accurate comparison requires a view that places American and indigenous thought on equal footing. Regimes must be understood as they are, and not seen through a lens that “appears to be the product of one particular culture, modern Western culture,” for “it is not certain that its use for the understanding of other [regimes] does not do violence to them.”⁴ Part of this violence is presuming that the individual is the locus of power within a regime or that a legitimate regime must be a contract association.

We turn to the **GWY** (*tsalagi* or Cherokee), not because they represent *the* indigenous experience, but because their situation provides an illustrative case study for analyzing and interpreting this tension. Traditional Cherokee epistemology holds that Cherokees are inextricably connected to one another and to the nonhuman world in a way that American liberal epistemology does not.⁵ This difference in epistemology underscores what we argue is a conflict of regimes. The term *regime* here is akin to the Greek *πολιτεία* (*politeia*), referring to how political life is organized in both public and private institutions; others have referred to this as “political culture.”⁶

To interpret how regime helps us understand the tension between Cherokee and US views of citizenship, we employ Aristotle, who encourages a better point of access for analyzing questions of regime than does contemporary liberalism.⁷ Aristotle suggests that regime reveals how societies conceive of the political, which in turn dictates life expectations.⁸ Liberalism’s leveling of political distinctions alienates the principle of particularity embedded within the classic Cherokee view of themselves as **DHBOC** (*Aniywiyi*), or “the real people,” which in turn informs their conception of who belongs in their political society.⁹

Our goal is to assess Cherokee political thought broadly, by examining its foundational ideas, before setting up a comparison

between Cherokee and US articulations of belonging at the turn of the nineteenth century, nested within an Aristotelian framework. Our theoretical framework is predicated on the idea that Aristotle “helps us to comprehend not only the perspective of cultures or communities that do not share liberal principles” but also those that do.¹⁰ Given that “indigenous patterns of thought overtly oppose many of the values [the] United States presumes,” this Aristotelian lens allows us to use a nonliberal Western perspective to identify weaknesses in the hegemonic liberal understanding exemplified in the United States. It also allows us to consider competing concepts of belonging: membership and citizenship.¹¹

We specifically use the term *regime* when discussing the ways in which legitimate political authority is transferred into institutions. In the Aristotelian account, a *politeia* is the organization of power informed by the character of a particular people, their geography, tradition, religion—this is to say, its culture. It is, however, distorting to ascribe the word *political* to systems not constructed in light of the Greek polis. Rather, the more malleable term *regime* instead of *political* allows us to step outside the epistemological inheritance of Greek thought. It provides us with a means to examine the organization of institutions without using the polis as the zenith of organized power.

The distortions that happen to the GWY regime because of liberal impositions demonstrate their ability to adapt; as David Wilkins notes, “Native peoples were more than willing to embrace new legal traditions and institutions to conform to new political realities” to protect their interests.¹² But such adaptability also shows that just looking at any specific organizational structure or system may distort the actual nature of the Cherokee Nation’s animating public philosophy. This public philosophy, grounded in the Cherokees’ identity as *Aniyvwiya*, allowed for adaptation in the face of imperial inclusivity, but such an identity could not endure a full adoption of the liberal cosmology. In short, the GWYᎠ DᎢᎦ (Tsalagihi Ayeli)—or Cherokee Nation—could endure adapting to, but could not forcibly adopt, the American liberal regime. Liberal cosmology imposes an umbrella identity that softens or dissolves

the boundaries between “me” and “not me” in a way that is alien to the Cherokee cosmivision. Rather, as indicated in the Cherokees’ traditional name for themselves—*Aniyvwiya*—the locus of their identity is grounded in maintaining the boundary of “me” from “not me.”

To accomplish this regime-based analysis, we first articulate an understanding of the Cherokee regime and its conception of membership as it existed at the turn of the nineteenth century. We then establish in brief how the American liberal regime conceived of citizenship at the founding during the same time. Next, we turn to Aristotle to provide a framework for placing these regimes in dialogue with each other. We conclude by comparing Cherokee and American regimes through an Aristotelian lens to interpret the tension between the two as rooted in how each views what constitutes the good life.

Citizenship and the Cherokee Regime

Before the American Revolution, an Indian trader named Sam Dent, who had married a Cherokee woman, murdered her while she was pregnant.¹³ Dent’s wife belonged to **Dhᵒᵒ** (*Anikawi*), or the Deer Clan, whose members decided to kill Dent in keeping with the law of blood, which demanded retribution for the murdered woman.¹⁴ Since the survival of the Cherokee matrilineal clans “depended on the clan’s women,” this particularly devastating loss demanded swift action.¹⁵ Fearing for his life, Dent fled to Augusta, Georgia, and there “to appease them and satisfy . . . [the Deer Clan] did then purchase a female slave name of Molly [*sic*]” to offer her as “remunerations” for his crime.¹⁶ The Deer Clan agreed to this transaction; Molly, formerly a slave in Georgia because of her race, was officially adopted into the Deer Clan as a result.¹⁷ Now a member in a Cherokee clan, Molly, taking the name Chickawa, became Cherokee herself and “enjoyed the liberty of freedom.”¹⁸ She would later, as a full member of Cherokee society, marry and have two sons, Edward and Chunestutee. Her race, in this respect, did not matter. Since Chickawa herself was a member of the Deer Clan, so also were her children. Thus did clan

membership confer belonging in the Cherokee Nation at the end of the eighteenth century.

It is important to note here the difference between the terms *citizen* and *member* as indigenous nations use them today. *Member* is used in several senses concerning human belonging, of which two are most relevant: (1) “relating to part of a living body organism” and (2) “relating to an individual or constituent element within a social or other organizational structure.”¹⁹ David Wilkins and Shelly Wilkins suggest that if “one understands Native peoples as genealogically or organically related communities who share a common language, values, and territory, then the term *member* is certainly apropos.”²⁰ The word *citizen*’s meanings convey more strongly rights, duties, and privileges: “(1) an inhabitant of a city or a town, especially one possessing civic rights and privileges; and (2) a member of a state, an enfranchised inhabitant of the country, as opposed to an alien.”²¹ Overall, tribal nations use *member* more frequently than *citizen*. While the Cherokee Nation today uses *citizen* in its constitution and laws, *member* is more appropriate than *citizen* when describing tribal belonging in the eighteenth and early nineteenth centuries.

Before Cherokee leaders adapted the term *legal citizenship* and applied it to themselves, the clan system governed Cherokee life. Clan membership was matrilineal. If a woman was a member of the Deer Clan, so were her children. Her partner, the father of her children, did not belong to her clan—and could not, given the Cherokees’ understanding of incest.²² A father’s children, therefore, were not his relatives. The fundamental male influence in a child’s life came from the child’s uncles, with the mother’s eldest brother taking precedence. To understand Cherokee clan-kin relationships, we must “think in terms of the blood family, not of the connubial family.”²³ Cherokee clan members believed they literally shared a common blood, not a symbolic blood.²⁴ These blood relationships structured Cherokee life, conferring rights and duties.

The basic right that stemmed from having a Cherokee mother was clan membership. Mothers and members of the mother’s blood family, especially her brothers, had a subsequent duty to

raise, instruct, and support her children.²⁵ This is to say not that fathers were totally absent but that the matrilineal and matrilineal nature of Cherokee society did not incentivize fathers, who belonged to a different clan, to take primary responsibility for their children. The concept of marriage, therefore, did not exist among the Cherokees in the European sense. Partnerships were fluid; monogamous marriages were short lived, since either party could end the relationship at will. While monogamy was the norm, polygamy was also permissible and practiced well into the nineteenth century.²⁶

Cherokee clans cultivated a “web of social welfare fail-safes,” reinforced by kinship bonds and a communal obligation to coordinate work for the social good, or *ᏍᏍᏉ* (*gadugi*).²⁷ Cherokees “did not view individual want as a failure of the individual in need; it was a failure of the entire community” to abide by *gadugi* and their kinship duties.²⁸ The tribal policy of holding land in common reinforced *gadugi* as well, as individuals in need could have access to whatever natural resources were available. James Adair described this system of sharing and reciprocity:

An open and generous temper is a standing virtue among [the Cherokees]. . . . When the Indians are travelling in their own [lands], they enquire for a house of their own tribe; and if there be any, they go to it, and are kindly received, though they never saw the persons before—they eat, drink, and regale themselves, with as much freedom, as at their own tables.²⁹

This ethos was derived not from pity or sympathy but from the Cherokees’ system for placing people into categories. Clan members, as Adair related, had a duty to other clan members and were generous with them. For enemies, however, there was no mercy. Robert Kelly, a Carolina trader, explained that in 1747 a French agent, wounded by Shawnees, begged Kelly to find a famous Cherokee healer to help him. In a clear illustration of the “me” and “not me” distinction, the healer “expressed great

surprise” at the request and said that as the French agent “was his Enemy he ought either to let him dye like a Dog or lend a helping hand to hasten it [*sic*].”³⁰

The communal consensus on ᏈᏈᏍᏏ ᏒᏐᏍᏏᏚᏏ (osda iyunvnehi), understood as right living, or “the continual act of perpetuating positive wellbeing for the community,” helped the decentralized Cherokees thrive.³¹ This consensus included their hospitality ethic, which was in turn rooted in one’s clan-kin. Cherokee extended families “included all other clan members” whose duties required that that same hospitality ethic be shown toward local neighbors.³² Hospitality obligations included offering protection from attack, feeding the hungry, clothing the naked, caring for orphans, and sheltering those without a home. Colonial officer Henry Timberlake described a communal ceremony in the 1760s, during which Cherokees collected funds to help the poor:

When any of their people are hungry, as they term it, or in distress, orders are issued out by the headmen for a wardance, at which all the fighting men and warriors assemble; but here, contrary to all their other dances, one only dances at a time, who, after hopping and capering for near a minute, with a tomahawke in his hand, gives a small hoop, at which signal the music stops till he relates the manner of taking his first scalp, and concludes his narration, by throwing on a large skin spread for that purpose, a string of wampum, piece of plate, wire, paint, lead, or any thing he can most conveniently spare; after which the music strikes up, and he proceeds in the same manner through all his warlike actions: then another takes his place, and the ceremony lasts till all the warriors and fighting men have related their exploits. The stock thus raised, after paying the musicians, is divided among the poor.³³

For the Cherokees, right living meant ensuring that their actions conformed to their understanding of harmony and balance. As a preliterate society, Cherokees crafted a cosmivision that could be

remembered, reinforced by a rich oral tradition and communal ceremonies. The preservation of these traditions defined their sense of “me,” their sense of distinction as *Aniyvwiya*, as opposed to those who were “not me,” or outside the boundaries of *gadugi* obligations.

One of the most prominent sacred Cherokee stories features 4M (*Selu*), the Corn Mother, and ㊀㊀㊀ (*Kana'ti*), the Lucky Hunter.³⁴ These two, “the original woman and man,” lived in harmony by a river with their unnamed son.³⁵ When alone, Selu produced corn for her family by rubbing her stomach and beans by rubbing her underarms. Kana'ti “never failed to bring back a load of game” from a hunt, which Selu would clean by washing the blood from the meat in the river.³⁶ This act of bloodletting by the river, however, gave life to a “Wild Boy,” born of the wasted blood, who persuaded Selu and Kana'ti's son to uncover the mysteries of how their parents produced food. The Wild Boy and his brother ultimately killed Selu, thinking her a witch when they saw how she produced food. Wherever her blood fell, corn sprang up from the earth. As a consequence of their actions, the boys altered the balance of the world; they (and subsequent humans) could not find food in abundance anymore because they did not respect the mysteries of life.

As demonstrated in the story of Selu and Kana'ti, Cherokees believed that the world existed in a precarious balance, kept in order by right or correct actions.³⁷ Wrong actions disturbed that balance. The “Indian view was of a world inhabited by beings” who possessed different powers—powers that were sustained by ritual and could be transferred from being to being.³⁸ The “theology of this traditional world is addressed to the notion of maintaining a proper balance and harmony among its beings and powers.”³⁹ Cherokees viewed themselves as an integral part of this balance; they believed they had a unique responsibility to keep those powers balanced, a responsibility they took seriously.

Their concern for “categorical tidiness” led the Cherokees to believe that mixing things from opposed categories, like blood and water, would create chaos.⁴⁰ Many rules in Cherokee society were

thus designed to prevent mixing categories, and ceremonies were “intended to dispel pollution once it had occurred.”⁴¹ The proscription against mixing is an important part of the Selu and Kana’ti story. Selu washes in the river the game Kana’ti killed, thus mixing water and blood. Indeed, twice in the story spilt blood produces new life, yet this new life is not harmonized with the existing order.

As a consequence of Selu’s actions, the Wild Boy is born, claiming to be Selu’s son. The Wild Boy did not respect boundaries. His understanding of how to survive was “simple and irreverent.”⁴² He was not interested in the long, arduous, and careful process by which wisdom is acquired and implemented, nor did he care to know the deeper significance of how humans ought to live rightly in the world. The Wild Boy caused the dispersion of resources, technology, and knowledge essential for Cherokee survival and therefore shaped the natural world into the one that Cherokees knew. Yet despite the Wild Boy and his brother both being braggarts and “reckless rule-breakers” who sowed chaos on earth, their story is one of redemption.⁴³ These boys, by some traditions, eventually learn to work for the communal well-being of the Cherokees, “making recompense through the assumption of individual responsibility and generously sharing food and labor with the earliest Cherokees.”⁴⁴ There is a major emphasis on restoration within the boundaries of the Cherokee cosmovision: even the Wild Boy’s mistakes have positive outcomes, thanks to his choice to make amends.

In ancient times, any Cherokee who heard the story of Selu and Kana’ti, and all its explanation had to “bathe in the running stream at daybreak” after the recital “while [a] medicine-man went through his mystic ceremonies on the bank.”⁴⁵ This story reinforces the need for a closed system, one that not only is skeptical of outside influences but also actively seeks to purge destabilizing knowledge from its people because such knowledge could have a corrupting influence. “Origin stories,” Rose Stremlau writes, “serve a fundamental human need by both explaining the existence of creation and setting the ground rules for interrelationship, and they therefore change along with those who tell and hear them.”⁴⁶

While there exist many different versions of the origin-of-corn-and-game story, each version emphasizes adaptation and restoration, not despair. Although things are not the way they were in ancient times, there is still a correct way to live, a pattern of behaviors that may be considered *most human*, a vision of a good life that permits human beings to live in harmony with the world and one another.⁴⁷

Cherokees resided in towns, which had two different governmental structures that depended on the status of the tribe vis-à-vis conflict: a white (peace chief) government and a red (war chief) government. The former reigned in all matters excepting war, “essentially a stable theocracy composed of the older and wiser men of the tribe.”⁴⁸ The latter, run by younger Cherokees, exercised its authority during wartime and was “flexible, responsive to changing conditions.”⁴⁹ Authority was thus given up and transferred to those recognized as the most capable in a given situation. Cherokee councils were ostensibly open, and anyone who wished to speak, man or woman, could speak, no matter how unpopular their words. The council did not meet to legislate as Europeans did; it met to reach consensus.⁵⁰ Cherokees reached popular consensus not by voting but by slowly dissolving the opposition.⁵¹ Those who did not agree with the majority either compromised or withdrew. The goal of the council was not to coerce dissenters but to conciliate differences. Cherokees believed that harmony and unanimity “should prevail.”⁵²

The belief in harmony and consensus extended to the Cherokee justice system. No town or national council had the authority to create police forces, so clan “custom and public opinion” maintained order.⁵³ Leaders selected other tribal members to mete out punishments against individuals guilty of harming the community; these punishments depended on the severity of the crime. Charges of treason, arson, incest, or witchcraft typically merited death.⁵⁴ Cherokee blood law was exercised to restore harmony after an individual killed a member of (typically) another clan.⁵⁵ Blood law involved the clan members of a homicide victim exacting retribution on the murderer. The clan was indeed the only body with

coercive authority, and “only in cases of homicide or incest.”⁵⁶ Public disdain followed in the wake of most nonviolent crimes. Cherokee society was so close-knit, however, that such public shaming—including “ear cropping, insult, public disgrace, and stoning”—often kept the peace.⁵⁷

Cherokees believed that the law, or rules of conduct, was not created by men but instead existed as “a sovereign command from the Spirit World.”⁵⁸ The law, as such, did not mandate or restrict behavior; rather, the law revealed a natural order. Historian John Haywood in 1823 described a public recitation of the law:

The great beloved man or high priest addresses his warriors and women giving all the particular and positive injunctions, and negative precepts they yet retain of the ancient law. He uses very sharp language to the women. He then addresses the whole multitude. He enumerates the crimes they have committed, great and small, and bids them look at the holy fire, which has forgiven them. He presses on his audience by the great motives of temporal good, and the fear of temporal evil, the necessity of a careful observance of the ancient laws.⁵⁹

When the lawgiver, dressed in the orator’s garments, “spoke the law, he was reading the meaning of history and tradition contained in the tribal wampum.”⁶⁰ This law, recited annually, was simple; Cherokees would have known it by heart.

Community ceremonies emphasized the value of restoration for wrongdoing and reminded Cherokees that the spirits, not human beings, governed them through their mystical laws. The Green Corn Festival, for example, required individuals to undergo acts of purification and restitution and prohibited them from participating in these rites if they were in conflict with another Cherokee.⁶¹ Since Cherokee tradition highlighted the value of each member to the community, cultivating harmony required pardoning offenses by this annual ceremony, where the Sacred Fire, polluted by wrongdoings, was reignited, burning away

transgressions. Celebrated in July or August, the Green Corn Festival became the occasion for the “forgiveness of debts, grudges, adultery, and all crimes except murder.” This ceremony forced a restoration of the internal order regardless of the parties’ desire for reconciliation. The forgiveness of trespasses was more important for the community than the individual’s will to forgive.⁶²

Aniyvwiya had responsibilities to live in certain ways that protected the natural world. Their desire for exclusive membership flows directly from their understanding of themselves as uniquely situated to sustain life on earth. At the same time, this desire, as Chief Wilma Mankiller put it, of Cherokees to “continual traditional dances” lest the world “come to an end” was coupled with a hospitality ethic that sustained Cherokee life.⁶³ The Cherokees did not appear to have proselytized their religious beliefs in the manner of Christianity or Islam. But they considered many of those who lived among them, including those adopted, to be fully Cherokee if they experienced and actively participated in Cherokee society. Culture, not blood, determined who was Cherokee. The mode of determining who participated in Cherokee culture was belonging to a clan. Belonging was therefore driven by an experience, such that those who experienced clan membership and participated in Cherokee culture *belonged*.⁶⁴

Citizenship and the American Regime

American colonists, as they gradually developed a cohesive idea of belonging, “took the model of the naturalized subject as their starting point” and eventually concluded that political allegiance should be the result of a “contract resting on consent.”⁶⁵ Consent here is an artificial construct whereby individuals agree to be bound by common contingent constraints. The citizen is therefore one who agrees to certain limitations on his or her behavior, given that others also agree to those same limitations. This tie between the individual and the community is “contractual and volitional, not natural and perpetual.”⁶⁶ Out of the Revolution, Americans forged an idea of citizenship that rested on consent, that could be uniform without “invidious gradations,” and that conferred equal rights.⁶⁷

The founders, drawing from their experiences under British rule, and as independent colonies with their own constitutions, solidified these constraints in the Constitution of 1787.

James Kettner reads US citizenship as Lockean, which means that consent is the moral executor. Others, like Rogers Smith, contend that American citizenship was born out of competing intellectual traditions, primarily Lockean liberalism, republicanism, and ascriptive prejudices.⁶⁸ The fundamental issue that exists by seeing American citizenship as purely contractual is exemplified in secession. What is the justification for the national government preventing state governments from leaving a mere contractual arrangement? This fundamental question has divided politicians and scholars alike since the antebellum period because these competing intellectual traditions, among which Christianity must be included, cannot produce a harmonious balance.⁶⁹ Just as American federalism separates and divides powers and responsibilities, the intellectual tradition that justifies this separation and division is itself divided. Each competing tradition presumes an answer to “What is the good life?” And each answer is preserved within the American political order. For our purposes, we are not going to treat each claim, only highlight that the preservation of each requires what James Madison refers to in *Federalist* No. 51 as “competition.”

This Madisonian approach to questions of the good life is liberal insofar as it leaves such questions up to the individual and does not superimpose a specific concept of the good life onto others. Alexis de Tocqueville, observing the second generation of Americans, refers to this kind of intellectual competition as “democratic restlessness.”⁷⁰ This kind of restlessness, as he saw it, manifests itself through Americans’ ongoing adoration of the principle of equality while never being satisfied with the current condition of equality. Tocqueville recognized that at its core, American democracy depended on the competition between what is and what could be. This competition is not just between principle and practice but between competing principles. Americans share an understanding that a good life is necessary for living well, but what they cannot

share is an agreement on a specific good life. Instead, the liberal principle of toleration serves as the shared paradigm—a paradigm that demands a capitulation to individual preference. Therefore, as Michael Sandel notes, Americans are able to agree on basic constraints on public life, but we are, by design, unable to agree on a positive list of attributes that will define the good life in contrast to other lives.⁷¹

It is in this light that we should view the preamble to the Constitution of the United States. It is here that we find the broad set of attributes that define an American citizen, but not specific responsibilities or expectations that define how a citizen will live well. We may ask, “What is required of a citizen in America?” and our answer would contain items like promoting the general welfare, providing for the common defense, ensuring domestic tranquility, and securing the blessings of liberty. These vague categories tell us what constraints exist for the citizen: follow the laws, live peacefully with one’s neighbors, give to our mutual defense, and so on. What this list does not do is lay out a series of rituals or practices that are incumbent on each citizen to perform; there is no expectation that the regime requires citizens to participate in its preservation except insofar as they follow this broadly defined set of mutually beneficial actions. As long as we contribute to our defense, through taxes, material goods, or service, we have met the shared expectation incumbent on citizens. The American republic is not bereft of expectations of citizens, but it is mostly silent as to how citizens are expected to meet such expectations.

Most of these expectations were left to the states, and at the founding of the country citizenship laws, as such, are found primarily at the state level. This makes it difficult to establish a ubiquitous definition for citizenship across the republic at the time of the founding. Selecting from a wide range of scholarship that aims to understand the range of citizenship laws during this period, for our purposes we agree with Smith that the Constitution aims not to assert which people are worthy of citizenship but to put constraints on what the states can and cannot do, placing boundaries on how tyrannical states can be.⁷² Article IV, Section 4’s republican

guarantee clause is the clearest example of this constraint within the Constitution serving as a list of qualities that are necessary for republicanism. As Alexander Hamilton noted in *Federalist* No. 1, this Constitution both draws from and occasionally redefines republican principles found in classical political thought. Built into this redefinition of republican citizenship is a competition between various intellectual traditions, with the liberal principle of toleration serving as a gatekeeper (but never the final arbiter) in debates over claims on the good life.

The framers argued that a constitutional regime could operate practically, given those tensions. They crafted a regime that did not fit into classical definitions of republicanism, yet still adhered to the core republican principle that society existed for the public good.⁷³ The public good often held in mind consisted of the maintenance of liberal values. These values would be upheld by a synthetic government, with different components organized to achieve desired outcomes.⁷⁴ The constitutional order fragmented power to maximize and utilize conflict so that any consensus that survived the legislative gauntlet was tolerable, given the conflicting perspectives in America about the good life. The result, however, was not always the practical application of liberal or republican values, at least not for everyone.⁷⁵

“Explicitly or implicitly—by constitutional provision, legislative enactment, or mere exercise of power—” the US government “assumed sovereign control” over naturalization and the admittance of foreigners.⁷⁶ From the beginning, Americans held an idea of citizenship that entitled one to fundamental privileges and immunities as articulated in the law.⁷⁷ These beliefs influenced the passage of the first national and state citizenship laws. While citizenship in the American republic writ large could be acquired automatically, it was presumed that true Americans would from birth be educated in the “fundamental values necessary for self-government”—a love of liberty.⁷⁸ There were, however, several contradictions in the law and in popular thinking when it came to citizenship.

The primary contradiction in American citizenship was that it was used negatively to distinguish between people born in

America.⁷⁹ While the Civil War would eventually remove “obstacles that had long prevented Americans from achieving a consistent concept of citizenship,” early Americans, gradually developing a sense of peoplehood, used their state governments to establish and generate changes to citizenship policies.⁸⁰ John Quincy Adams described citizenship at the founding as a contractual agreement between heads of families, derived from a perceived naturally hierarchical order where husbands spoke politically for their households, granted they met certain property requirements.⁸¹ By the 1820s, as they attempted to articulate a cohesive sense of peoplehood, state governments had all but dissolved the property requirements for male suffrage—and had begun rescinding previous suffrage for women and free Black men.⁸² The decentralized nature of the American republic extended to even foundational questions of citizenship, allowing for shifts in policy that flew in the face of the march toward equality that Tocqueville would attest to in the 1830s. By leaving even questions of citizenship up to state discretion, the founding period allowed democratic prejudice to supersede the republican protections enshrined in the Constitution. The American Civil War is, at least in part, a consequence of this decentralization and conflict between democratic prejudice and republican guarantees.

This decentralization, however, does not mean that a tradition was not developing around the idea of American citizenship. This emerging idea that focuses on contractual consent, labor, and equality is, according to Judith Shklar, the consummation of a diverse peoples’ desire for inclusion; it is citizenship as “standing.”⁸³ Citizenship therefore brings acceptance and solidifies one’s place in the polity while simultaneously presuming a divorce between public work and private kinship. This understanding we can call the American form of citizenship. This form of citizenship handles the tension between kinship and citizenship by segregating private and public into distinct spheres of interest without attempting to reconcile the competing claims each places on individuals. By so doing, American citizenship is able to relegate questions of the good life to the private sphere while preserving the

public benefits that emerge from competing claims on the good life. This Mandevillian approach to questions of the good life prioritizes the individual in a way that preserves the person's capacity to choose between competing claims but perpetually isolates him or her from others. Competing claims on the good life are preserved but the ability to live according to a specific claim is truncated based on the higher principle of preserving each individual's ability to choose.

The American conception of "me" is not bound to any particular understanding of a good life as such, and because of this any distinction between "me" and "not me" is not predicated on conflict over the good life. Rather, "me" and "not me" distinctions in America tend to substitute a different category of identity—race, class, gender—to draw lines of distinction instead. The centrality of conflict within American citizenship is inclusive of multiple conceptions of the good life, but because of this inclusivity American citizens are perplexed by a constant quest for belonging.

Regime Conflict: An Aristotelian Framework

The presumption of the American understanding of liberty is that competing claims on the good life will always be on a collision course. Because the American approach to citizenship, and by extension the approach to constructing a shared understanding of the good life, prioritizes the individual over other competing interests, it alienates understandings of the good life that are not premised on individualism. By contrast, the Cherokee conception of the good life presumed that its claim on the good life was the correct one and required its members to follow established practices and rituals for the preservation of that understanding. Each framework requires that its members believe their claim on the good life, or in the American case their demand of toleration; so, in order not to do violence to either, we need a non-American and non-Cherokee perspective to stand outside their competing logics. It is for this reason that we turn to Aristotle as we attempt to establish a framework for examining this conflict of regimes.

Aristotle's political thought is complex, so establishing an Aristotelian framework for analysis is tenuous. Our purpose here is not to explicate tensions in Aristotle's thought but to create one possible interpretive framework. To do so, we lay out a foundation for understanding the relationship between humanity's simultaneously private and communal nature. We do this for two reasons: (1) to identify what distinguishes a private or ethnic identity from a communal or political one and (2) to determine how to understand the nature of the citizen as distinct from the member.

The first element of this framework requires briefly taking up Aristotle's understanding of why human beings come to live in political associations. We do this to show that the distinction between public and private, an element evident in so much of liberal thought, is not as evident in Aristotle. Rather than seeing public and private life as separate spheres, Aristotle places these elements in direct tension based on the claim each makes on human lives. Aristotle also shows how both the private and the public life are drawn from the same impulses in human beings—namely, the drive to replicate and the anticipation of future needs.

In the *Nicomachean Ethics* 8.12, Aristotle presents an account of human nature, stating that humans are both privately coupling and communally political creatures. Here Aristotle reminds us that every kind of friendship is a kind of community, but then he distinguishes between communities of blood relations and those of companionship.⁸⁴ He makes this distinction because “fellow citizens or tribesman or shipmates, and all those of that sort, seem more like communities, since they seem as if they result from a certain kind of agreement, and one might rank a friendship with a foreign guest among these.”⁸⁵ Companions are defined as those who seem more like a community because they appear based on an *ὁμολογίαν* (*homologian*), an agreement on what is advantageous and conducive to living well.⁸⁶ By this, Aristotle does not mean agreement in the contractual liberal sense. While it certainly includes a shared sense of reasoning or understanding, perhaps best called being of one mind, it requires a sense of affection or *φιλία* (*philia*). This need for affection is also true within kin associations.

Aristotle holds that while kin connections exist in different forms, they are all ultimately derived from parents, which creates an imbalance within the family relative to friendship. Parents love their children more than children love their parents.⁸⁷ In contrast to this apparent familial inequality, Aristotle notes, brotherly friendship is similar to companionship.⁸⁸ He says that those who share the same character are companions (though this passage could also mean that those who dwell together are friends). In either case, this reinforces the notion that companionship is a kind of agreement about how to live together; there is a similarity in the character of those who reside together. Because of this, brothers are like companions. This does not dissolve the distinction between family and companionship but instead highlights how the most equal part of the family, the relationship between brothers, is more akin to that of companionship.

The critical distinguishing feature of the human family is the ruling element.⁸⁹ Aristotle argues that “that which can foresee with the mind is the naturally ruling and naturally mastering element,” whereas the naturally ruled is “that which can do these things with the body.”⁹⁰ The ability to regulate the body is associated with natural rule, and this ruling element has the power to do this because it can make provisions or see before others. This capacity not only gives commands to the body but also anticipates what kinds of commands are necessary for a given circumstance; it has the power to see what the person needs before the body makes a demand.

Thus, one could make the distinction that the drive to replicate leads to the family and the drive to rule leads to the city, but Aristotle’s account here is that the drive to both replicate and to rule exists within the family.⁹¹ If this were not the case and the only drives in the family were procreation and preservation, not ruling understood as foresight and the ability to command accordingly, then human beings would live like other animals, defining our lives by procreation and preservation and nothing more.⁹² But including the drive to rule in both the family and the city does not dissolve the tension either. If the family is based on the drives to replicate

and to rule, which of these is inadequately satiated within the family? The answer seems to lie in whether replicating or ruling best facilitates self-sufficiency, for living well through self-sufficiency seems to be the goal of human life—a tension beyond our present purposes. When discussing self-sufficiency as it relates to the limited form available to the city, our concern is why this ruling element is not satiated by the family and why Aristotle argues that it forces us into larger associations.

The next level of association, the *κώμη* (*kōmē*), or village of kin, arises to address nondaily needs. Villages form out of necessity and thus naturally.⁹³ Since “by nature the village seems to be above all an extension of the household,” the village must also have strengths and weaknesses similar to those of the family.⁹⁴ Since they are extensions of the household, villages display monarchical rule, which is related but not equivalent to the rule of parents over children. *Monarchical rule* is the rule by one who “carries the respect of the community” (a king or chief) over subjects (who are not citizens) for the good of the whole.⁹⁵ The intimacy of life in villages is defined by kinship relations, under a leader. This is why, Aristotle contends, the interrelated Homeric gods were portrayed as living together in a village, under a monarch; “for human beings assimilate not only the looks of the gods to themselves, but their way of life as well.”⁹⁶ These associations did not have *citizens* as Aristotle understood the term, but instead had *members* or *subjects*. Yet villages, for Aristotle, are not in and of themselves self-sufficient; the end of political associations is instead the city, or *πολις* (*polis*), where humans might achieve their full potential—“truth, friendship, and justice”—by interacting and living with those not bound by kinship associations alone.⁹⁷

Life drives the evolution of the polis.⁹⁸ The polis, while including kinship networks, is not a familial association that is best situated to help reach an approximation of self-sufficiency through mutual agreement with those outside of their families. Aristotle argues that it is the capacity of human beings to reason through arguments, an extension of foresight, that both defines their status as unique political animals and explains why humans are naturally

aimed at the polis: humans may judge between things that are beneficial or harmful, just or unjust.⁹⁹ The polis is not an aggregate of households and villages; and conversely, villages and households do not cause the polis. These associations “are *transformed* into the polis,” so rule in the polis is fundamentally different from rule in the village or household.¹⁰⁰ The polis features an agreement within the political community about claims of justice.

The distinction between the familial and political is not in caring for private cultivation or replication but in the nature of the things being cultivated and replicated. Both areas make claims on us and our drives to cultivate and replicate, though they do not always agree on what requires cultivation and replication. What does seem to distinguish the familial from the political is the level of intimacy associated with each category and that a family does not require like-mindedness for its continued existence. A city depends on its citizens agreeing on a series of suppositions on how justice will be enacted within the city, how honors are to be allocated, who is worthy of citizenship, and so on. A family does not depend on sharing a like-mind on such questions but instead is derived from the more intense, intimate bond that exists through *bloodline*.¹⁰¹ The private life, the life of the family, relies on the same drives as public life but does not require sharing a common notion of what the good life is beyond the boundary of bloodlines. In lieu of family association, the city constructs its own intimate bond: the citizen.

We may now appropriately ask, “What does it mean to be a citizen?” In perhaps the most famous articulation of citizenship, Aristotle defines *citizens* “in an unqualified sense” as those who “share in decisions and office.”¹⁰² Whoever is entitled to participate in an office involving deliberation or decision is a citizen. The excellent citizen must have “the capacity to rule and be ruled” and “share in prerogatives.”¹⁰³ This qualification necessarily presupposes a kind of exclusivity. Citizenship here is predicated not on kinship ties or blood relations but on a shared understanding of who deserves to rule and on what things they should be ruling. This understanding of the political organization, the *πολιτεία*, we can say

is the substantive core of what it means to be a citizen in practice. This is to say not that Aristotle understands citizenship as a mere contract but that citizens must share a mind relative to these first principles. Our understanding of how Aristotle views *citizens*, those who live in the city, can now be more clearly defined. A citizen is one who shares in ruling and is ruled, who participates in deliberative offices, and who shares an understanding with other citizens of the nature of how the preceding two categories are organized, distributed, and utilized. Cities require a certain level of affection to function, but they even more so require a shared understanding of the nature of the political organization, since the city is not predicated on kinship ties.

Cherokee and American Regimes in Conflict

Having presented a brief overview of the Cherokee and US regimes and an Aristotelian framework for examining political associations, we now apply that framework to the conflict between the Cherokee Nation and the United States over belonging. For Aristotle, the city does not form by itself; it must be created by human activity as part of the human experience. As such, while Aristotle asserts that the city is the natural end of political society, regimes take different paths depending on their needs. Aristotle is, above all, concerned with understanding regimes as they exist—and it is their “inner workings” that determine their existence.¹⁰⁴ The village of kin, therefore, exists as a natural form of government, despite its apparent lack of self-sufficiency. The village may be considered “pre-political” because (a) life is governed by a set of traditions or mores that do not imagine that the rules can change and (b) its members are kin, bound by blood, which may smooth over disagreements otherwise intractable.¹⁰⁵

We do not mean to reduce the Cherokee reality into one Aristotelian category. Rather, we mean to highlight how the difference in the ends to which ruling is aimed underscores a critical division between the Cherokee and American regimes. This division is reflected in the tension that exists between the village and the polis.¹⁰⁶ Therefore, we are utilizing the Aristotelian framework

to illustrate the division, not to compress the Cherokee experience into a specific analytic framework. In the eighteenth century, Cherokee society contained a not insignificant amount of diversity between how Cherokees in different towns lived and thought.¹⁰⁷ Cherokee society was predicated on kinship relations, via the clan system, yet traditional Cherokee practices included a fairly prominent adoption process by which outsiders, like Chickawa, were adopted into a clan, thus becoming Cherokee. This adoption process indicates that Cherokee kin relations were not entirely based on blood but that the kin association was nonetheless of paramount importance. The Cherokees' belief system was well defined, but not totally rigid either: Cherokees consistently adapted new practices they found useful to fit their needs and amended their laws to sustain their community as necessity dictated.¹⁰⁸

A regime being a unique combination of societal roles, norms of behavior that should guide those roles, and goals for which they should work, it does not matter for our purposes that Aristotle understood the village to be a stage in the development of the polis.¹⁰⁹ Neither does it matter whether the Cherokee Nation is either a village or a polis, properly speaking (arguments could be made either way). What is important here is that the animating principle behind *belonging* in the Cherokee Nation was based on cultural kinship, wherein membership ought to be exclusive to preserve the tribe's vision of the good life. That is, the cultural family of kin and the community made complimentary claims on the lives of individuals, for benefiting the community benefited kin, and vice versa. Clan membership was therefore more akin to companionship than legal citizenry.

While the Cherokee Nation created a governing constitution in 1827 that used the term *citizen* to describe legal belonging, this alteration did not eliminate kin relationships or the desire of Cherokee leaders to maintain a standard for exclusive citizenship.¹¹⁰ To this day, the Cherokee Nation uses its constitution and laws to articulate means to keep citizenship exclusive, to ensure that belonging is restricted, by lineal descent, to those who

experience Cherokee culture. Principal Chief Chuck Hoskin Jr. in 2019 wrote that

[when] I discuss citizenship with non-Native friends, I talk about my family table. During holidays, our family table is shared by my immediate family, and friends we do not get to see that often. They are all welcome and loved as we share food, stories and laughter.

However, if something tragic were to happen to me or my wife, not everyone at that table would be entitled to inherit my house or become legally responsible for my kids. Those friends at my table will no doubt be critical in healing and providing love for those left behind, but it is my immediate family that will have their own rights and responsibilities in the eyes of the law.

This concept of family is key to understanding why citizenship matters. Everyone who cares about us as Natives are welcome, but at critical moments those that have legal and cultural standing have a unique place with specific rights and responsibilities.¹¹¹

Despite taking on, in appearance, a form of legal citizenship like that of the United States, Cherokee citizens simultaneously remained tied by kinship and blood relation; legal tribal citizenship presupposes kinship ties infused with, but not dominated by, a liberal understanding of legal consent.

Consent-based citizenship in the United States, by comparison, has, from the beginning, given Americans a different sense of their place in the political community. As discussed, this form of citizenship has come to prioritize egalitarian inclusivity, which requires a flattening of cultural distinctions and a private compartmentalization of family life. This means that the American form of citizenship developed around a sense of contract rather than community. While many early US laws were designed to support and encourage a nuclear family, one well coached in civic virtue, the nature of a theoretically inclusive regime demanded a public

distinction between exclusive kinship and inclusive citizenship.¹¹² The United States depends on the private order for its informal systems, while its formal systems aim to correct the dangers associated with too much private affection. This private affection, if not properly mitigated, would ultimately undermine the tenuous status of toleration as the moral arbiter of the public square. Toleration works only if multiple answers to the question of the good life are actively viable but without particular answers to inflame excessive private affection. Implicit in this supposition is a kind of skepticism toward absolutism around questions of the good life. To follow Madison's plan to "end sectarian and similar factional conflicts through freedom," we must instantiate a kind of skepticism toward claims on the good life; this public character is, as Shklar notes, "the perfect example of the fit between skepticism and liberal politics."¹¹³

We have, then, two regimes whose formal and informal components reveal two competing understandings of the good life in political associations. Cherokees served the public good by maintaining their communal order, a task made easier by their close kinship associations. For Cherokees, the people's rule was channeled through social mores that place clan and kin hierarchy in positions of power. There, the obligations of tradition and writ have historically dominated both formal and informal systems. Aristotle shows us that the village depends on the intimacy associated with family kinship ties. There, public and private are not distinct spheres—separating the two is what Tocqueville referred to as the disorder brought on by European mores.¹¹⁴ The Cherokee system does not rely on such a hard cleave from intimacy as does the American regime. It is along this fault line that we see most clearly the differences in how these two regimes understand the good life, one predicated on the principles of liberal toleration and the other on preserving the life of the *Aniywiyi*.

Aristotle helps us to understand and appreciate the virtue in Cherokee particularism as a viable systematic attempt to live a good life. American liberalism values the right to choose a good life over the value of any particular good life.¹¹⁵ This idea is manifested

in the liberal version of federalism in the United States. Rather than vesting any one claim on the good life with power, American federalism decentralizes power so that no single claim on the good life rules.¹¹⁶ The Cherokee regime, by contrast, centers on a particular version of the good life. This way of life is based in tribe or village, not in the city, because it is predicated on kinship ties. The gap that exists between these two categories seems, fundamentally, to depend on kinship bonds. The city transcends these bonds, while perhaps depending on them in some capacity, whereas the village or tribe relies on the exclusivity of kinship ties as a defining component of its political identity. In this sense, the tension between the family and the city is mitigated by abandoning the inclusivity of the city for the exclusivity of the tribe. In this way, the gap between the village and the city in Aristotle's thought parallels the gap between the tribal identity of the Cherokees and the US citizen in the late eighteenth century.

While the American answer to the question of the good life may be comfortable with competing claims on the good life, systems like that of the Cherokee Nation operated under the assumption that there is one best life for them as a people. That best life "was guided by a deep faith in supernatural forces that linked human beings to all other living things" and opposed to "the belief that what is later is always better, the feeling that progress is its own reward."¹¹⁷ Imposing the pluralism necessary for liberal, inclusive toleration onto the Cherokee system threatens their historic understanding of themselves as the *Aniyvwiya*, which would reduce them to simply being one tribe among many. The principle of liberal toleration will "otherize" such a system too dramatically to be the appropriate means for addressing such conflict.

Conclusion

The Cherokee Nation is, of course, not unique in how it prioritizes its claim for a particular version of the good life. Hundreds of indigenous tribal governments in the United States also claim particular visions of the good life—all in tension with the United

States and with each other. Treating indigenous thought as monolithic homogenizes and harmonizes tensions that may be intractable. Studies of indigenous political thought ought therefore to take diverse indigenous ideas seriously, rather than treating the same as products of oppression or as partial versions of the American republic. The path forward involves confronting the tensions between tribal nations and the United States, not simply on policy issues, but over foundational ideas of what constitutes the good life.

The crisis in the West among liberal democracies, Andrew Murray argues, is the neutrality of the state in relation to ethics and affection, which citizens easily take to mean a rejection of any ethics at all.¹¹⁸ Indigenous nations, on the contrary, are “built on affection rather than on anything like Hobbesian fear.”¹¹⁹ Thus real ontological divergences exist over how life should be lived that contribute to the ongoing conflict over citizenship in America. Future research into these divergences within the emerging field of comparative political thought would benefit from addressing this regime conflict by way of Aristotle, who encourages a better point of access than does contemporary liberalism. As Susan Collins argues, Aristotle creates a “middle ground” between “dogmatic commitment to convention and skeptical alienation from it.”¹²⁰ Incorporating more voices that place liberalism and Western ways of being in conversation, on an equal footing, with indigenous ways of being avoids harmful distortions and caricatures that “do violence to them.”¹²¹

The inclusiveness inherent to the rationale of liberalism, if not always apparent in practice, eventually leads to an ever-expanding demand for inclusivity.¹²² This expansion can even extend to imposing this conception of inclusivity onto those whose conception of the good life is not inclusive, or at least not predicated on the notion that toleration of all claims of the good life is itself *the good*. While American liberalism theoretically seeks to include as many people as possible, it flattens in the process, thereby reducing religions, cultures, and traditions to politically tolerable versions of themselves.¹²³ Because of this, the American form of citizenship may also be understood as a kind of tolerable inclusivity, an

inclusivity that is an enforced toleration. This toleration preserves traditions to guarantee an individual's ability to choose to participate in the tradition, but not because the tradition is true or represents the good life. Rather, it is preserved as one among many others to maximize individual choice. This ultimately means the moral executor is consent, not traditional obligations or other forms of solidarity. This maximizes the amount of individual choice, but it also guarantees ongoing restlessness, a dynamic of perpetual conflict that will, as Sandel argues, prioritize the right over the good.¹²⁴ The foundations of US citizenship presume inclusivity of diverse peoples but dissolves diverse political beliefs as a result of that inclusion.¹²⁵

Notes

1. James Adair, *The History of the American Indians* (London: Edward & Charles Dilly, 1775), 15, 18.
2. Thomas West, *The Political Theory of the American Founding* (Cambridge, MA: Cambridge University Press), 117.
3. Paul Frymer, "Why Aren't Political Scientists Interested in Native American Politics?," *Perspectives on Politics* 14 (2016): 1042–43; David E. Wilkins and Shelly Hulse Wilkins, *Dismembered: Native Disenrollment and the Battle for Human Rights* (Seattle: University of Washington Press, 2017); Vine Deloria Jr. and David E. Wilkins, *Tribes, Treaties, and Constitutional Tribulations* (Austin: University of Texas Press, 1999); Aaron Kushner, "Cherokee Political Thought and the Development of Tribal Citizenship," *Studies in American Political Development* 35 (2021): 1–15; Circe Sturm, *Blood Politics: Race, Culture, and Identity in the Cherokee Nation of Oklahoma* (Berkeley: University of California Press, 2002); David E. Wilkins and K. Tsianina Lomawaima, *Uneven Ground: American Indian Sovereignty and Federal Law* (Norman: University of Oklahoma Press, 2001); David Myer Temin, "Custer's Sins: Vine Deloria Jr. and the Settler-Colonial Politics of Civic Inclusion," *Political Theory* 46 (2018): 357–79.
4. Leo Strauss, *The City and Man* (Chicago: University of Chicago Press, 1978), 34.
5. Brian Burkhardt, *Indigenizing Philosophy through the Land: A Trickster Methodology for Decolonizing Environmental Ethics and Indigenous Futures* (Ann Arbor: Michigan State University Press); Rose Stremmlau,

- Sustaining the Cherokee Family: Kinship and the Allotment of an Indigenous Nation* (Chapel Hill: University of North Carolina Press, 2015); Wilkins and Wilkins, *Dismembered*.
6. Strauss, *City and Man*, 33. Throughout this essay, we refer to Aristotle's work using the Bekker numbering system. Aristotle's *Politics* and Aristotle's *Nicomachean Ethics* are abbreviated in notes *Pol.* and *NE*, respectively.
 7. *Pol.* 1289a14–18.
 8. Susan Collins, *Aristotle and the Rediscovery of Citizenship* (Cambridge, MA: Cambridge University Press, 2006), 3–4.
 9. Wilma Mankiller and Michael Wallis, *Mankiller: A Chief and Her People* (New York: St. Martin's Press, 1993), 16. **DhBΘϞ** may also be translated as "The Pure People": **DBΘ** (*ayvwi*) meaning "person," the pluralized form being **DhBΘ** (*aniyvwi*) and the suffix **Ϟ** (*ya*) being an indication of purity or realness. Durbin Feeling, **GWY-ᄁᄁᄁ ᄁᄁᄁᄁᄁᄁᄁ** [*Cherokee-English Dictionary*] (Tahlequah: Cherokee Nation of Oklahoma, 1975), 310.
 10. Collins, *Citizenship*, 3.
 11. Kennan Ferguson, "Why Does Political Science Hate American Indians?," *Perspectives on Politics* 14 (2016): 1029–38, at 1029; Andrew Murray, *Thinking about Political Things: An Aristotelian Approach to Pacific Life* (Hindmarsh, SA: ATF Theology Adelaide, 2016).
 12. David E. Wilkins, *Documents of Native American Political Development: 1500s to 1933* (Oxford: Oxford University Press, 2009), 2.
 13. J. Matthew Martin, *The Cherokee Supreme Court: 1823–1835* (Durham, NC: Carolina Academic Press, 2021), 196–97; Theda Perdue, "Clan and Court: Another Look at the Early Cherokee Republic," *American Indian Quarterly* 24 (2000): 562–69; William McLaughlin, *Cherokee Renaissance in the New Republic* (Princeton, NJ: Princeton University Press, 1986), 347.
 14. Judgment Docket, *supra* note 31, at Friday, October 18, 1833; Perdue, "Clan and Court," 562–63.
 15. Perdue, "Clan and Court," 562.
 16. Judgment Docket, *supra* note 31, at Friday, October 18, 1833.
 17. *Ibid.*
 18. *Ibid.*
 19. Wilkins and Wilkins, *Dismembered*, 57.
 20. *Ibid.*, 57; emphasis in original.
 21. *Ibid.*, 58; the authors draw these definitions from the *Oxford English Dictionary*.

22. Cherokees were forbidden to couple with members of both their own clan and their father's clan, as these relationships were considered incestuous and would therefore create an imbalance. McLoughlin, *Cherokee Renascence*, 11; Sturm, *Blood Politics*, 30–31; John Philip Reid, *A Law of Blood: The Primitive Law of the Cherokee Nation* (DeKalb: Northern Illinois University Press, 2006), 43–45.
23. Reid, *Law of Blood*, 39.
24. Charles Hudson, *The Southeastern Indians* (Knoxville: University of Tennessee Press, 1976), 191; Raymond D. Fogelson, "On the 'Petticoat Government' of the Eighteenth-Century Cherokee," in *Personality and the Cultural Construction of Society: Papers in Honor of Melford E. Spiro*, ed. David K. Jordan and Marc J. Swartz (Tuscaloosa: University of Alabama Press, 1990), 173–74.
25. Reid, *Law of Blood*, 39–40.
26. *Ibid.*, 117–19.
27. Julie Reed, *Serving the Nation: Cherokee Sovereignty and Social Welfare, 1800–1907* (Norman: University of Oklahoma Press, 2016), 6.
28. *Ibid.*, 6; Stremlau, *Cherokee Family*, 22; Gregory Smithers, *The Cherokee Diaspora: An Indigenous History of Migration, Resettlement, and Identity* (New Haven, CT: Yale University Press, 2015), 6; Emmet Starr, *Early History of the Cherokees* (Claremore, OK: Clearfield, 1917), 2–4.
29. Adair, *History*, 17.
30. Minutes of Nov. 17, 1747, *S. C. Council Journal*; Minutes of June 10, 1747, *Upper House Journal*; cited in Reid, *Law of Blood*, 269.
31. Reed, *Serving the Nation*, 5.
32. *Ibid.*, 6–7; Starr, *Early History of the Cherokees*.
33. Henry Timberlake, *The Memoirs of Lieut. Henry Timberlake: Who Accompanied the Three Cherokee Indians to England in the Year 1762* (London: J. Ridley, 1765), 69.
34. Mooney, "Myths," 242–49; Hudson, *Southeastern Indians*, 148–56; Smithers, *Cherokee Diaspora*, 13–16.
35. Smithers, *Cherokee Diaspora*, 14; Sturm, *Blood Politics*, 34–35.
36. James Mooney, "Myths of the Cherokee," *Nineteenth Annual Report of the Bureau of American Ethnology* (Washington, DC, 1900), 242.
37. Murray L. Wax and Rosalie H. Wax, "Religion among the American Indians," *Annals of the American Academy of Political and Social Science* 437 (1978): 27–39, 28.
38. *Ibid.*, 28.
39. *Ibid.*, 30.

40. Hudson, *Southeastern Indians*, 148.
41. *Ibid.*, 148.
42. Stremmlau, *Cherokee Family*, 21.
43. Hudson, *Southeastern Indians*, 155.
44. Stremmlau, *Cherokee Family*, 22.
45. Mooney, "Myths," 2.
46. Stremmlau, *Cherokee Family*, 242.
47. Marilou Awiakta, *Seeking the Corn Mother's Wisdom* (Golden, CO: Fulcrum, 1993), 10–14.
48. Rennard Strickland, *Fire and the Spirits: Cherokee Law from Clan to Court* (Norman: University of Oklahoma Press, 1975), 24.
49. *Ibid.*, 24.
50. *Ibid.*, 224.
51. McLoughlin, *Cherokee Renascence*, 278.
52. *Ibid.*, 395.
53. *Ibid.*, 11.
54. Reed, *Serving the Nation*, 8.
55. Smithers, *Cherokee Diaspora*, 118–19.
56. McLoughlin, *Cherokee Renascence*, 12.
57. Reed, *Serving the Nation*, 8; Strickland, *Fire and the Spirits*, 26–30.
58. Strickland, *Fire and the Spirits*, 11.
59. John Haywood, *The Natural and Aboriginal History of Tennessee* (Nashville, TN: George Wilson, 1823), 243; cited in Strickland, *Fire and the Spirits*, 11.
60. Strickland, *Fire and the Spirits*, 11.
61. Hudson, *Southeastern Indians*, 367–70.
62. Theda Perdue, *Cherokee Women* (Lincoln: University of Nebraska Press, 1998), 25.
63. Mankiller and Wallis, *Mankiller*, 29.
64. The Cherokee Nation's eventual legal practice of restricting citizenship to those related by blood—as articulated in their 1827 Constitution—was built upon, while altering, centuries of clan affiliation and kinship bonds. Cherokees used this constitutional framework to preserve and legally articulate distinct Cherokee political practices, like maintaining exclusive tribal membership, against US pressures to assimilate. While being a legal Cherokee citizen today requires proof of relation to someone listed on the Dawes Rolls (a census taken at the turn of the twentieth century documenting inhabitants of the Cherokee Nation ahead of allotment and Oklahoma statehood), the desire to maintain the spirit of exclusive citizenship remains an integral part of that regime. Kushner, "Development."

65. James H. Kettner, *The Development of American Citizenship, 1608–1870* (Chapel Hill: University of North Carolina Press, 1978), 9.
66. *Ibid.*, 10.
67. *Ibid.*, 10; Rogers M. Smith, *Civic Ideals* (New Haven, CT: Yale University Press, 1997).
68. Smith, *Civic Ideals*, 1–2.
69. Elliot Bartky and Stephen Clouse, “Orestes Brownson on the Democratic Principle and the Fourteenth Amendment,” *American Political Thought* 9 (2020): 1–27.
70. Alexis de Tocqueville, *Democracy in America*, ed. Harvey C. Mansfield and Delba Winthrop (Chicago: University of Chicago Press, 2000).
71. Michael Sandel, *Democracy’s Discontent: American in Search of a Public Philosophy* (Cambridge, MA: Harvard University Press, 1998).
72. Smith, *Civic Ideals*, 119.
73. Forrest McDonald, *Novus Ordo Seclorum: The Intellectual Origins of the Constitution* (Lawrence: University of Kansas Press), 285–87.
74. Jay Dow, *Electing the House: The Adoption and Performance of the U.S. Single-Member District Electoral System* (Lawrence: University Press of Kansas, 2017), 26.
75. Kettner, *Development*; Smith, *Civic Ideals*.
76. Kettner, *Development*, 214.
77. *Ibid.*, 287.
78. *Ibid.*, 287–88.
79. Judith N. Shklar, *American Citizenship: The Quest for Inclusion* (Cambridge, MA: Harvard University Press, 1991).
80. Kettner, *Development*, 334; Smith, *Civic Ideals*, 170.
81. John Quincy Adams, *The Social Compact* (Providence, RI: Knowles & Vose, 1842).
82. Smith, *Civic Ideals*, 170–73.
83. Shklar, *Citizenship*, 14.
84. ἐταρικήν can also mean those who are members in the same fraternity or a similar kind of political partisan. Joe Sachs, trans., *Aristotle’s Nicomachean Ethics* (Cambridge, MA: Hackett, 2002), 158. Bartlett and Collins translate it as “comrade.” Robert C. Bartlett and Susan D. Collins, trans., *Aristotle’s Nicomachean Ethics* (Chicago: University of Chicago Press, 2011), 181.
85. *NE* 1161b12–14.
86. This literature on this topic is vast and beyond the scope of this study. For an excellent overview, see Bernard Yack, *The Problems of a Political Animal* (Berkeley: University of California Press, 1993);

- Cathal Woods, "The Limits of Citizenship in Aristotle's Politics," *History of Political Thought* 35 (2014): 399–435; Fred Miller, *Nature, Justice, and Rights in Aristotle's "Politics"* (Oxford: Oxford University Press, 1995); Mary Nichols, *Citizens and Statesmen: A Study of Aristotle's Politics* (Washington, DC: Rowan & Littlefield, 1992); Wayne Ambler, "Aristotle's Understanding of the Naturalness of the City," *Review of Politics* 47 (1985): 163–85.
87. NE 1161b18–25.
 88. NE 1161b35–40.
 89. Pol. 1252a28–32.
 90. Pol. 1252a30–33.
 91. Pol. 1253a14–18; Judith Swanson, "Aristotle on Nature, Human Nature, and Justice," in *Action and Contemplation: Studies in the Moral and Political Thought of Aristotle*, ed. Robert C. Bartlett and Susan D. Collins (New York: SUNY Press, 1999), 225–43.
 92. Carnes Lord, "Aristotle's Anthropology," in *Essays on the Foundation of Aristotelian Political Science*, ed. Carnes Lord and David K. O'Connor (Berkeley: University of California Press, 1991), 49–73, at 55.
 93. Rakhahari Chatterji, "Structural Concepts in Aristotle's Politics," *Indian Journal of Political Science* 34 (1973): 71–85.
 94. Pol. 1252b16.
 95. Murray, *Political Things*, 17.
 96. Pol. 1252b25–26.
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