

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

WHO BELONGS?  
FROM TRIBAL KINSHIP  
TO NATIVE NATION CITIZENSHIP  
TO DISENROLLMENT

A NATIONAL CONFERENCE IN HONOR OF VINE DELORIA, JR.

UNIVERSITY OF ARIZONA  
JAMES E. ROGERS COLLEGE OF LAW  
INDIGENOUS PEOPLES LAW & POLICY PROGRAM  
UNIVERSITY OF ARIZONA AMERICAN INDIAN STUDIES DEPARTMENT

TUCSON, ARIZONA  
Thursday, March 9, 2017  
9:34 a.m.  
A.M. SESSION

Reported by:	CARRIE REPORTING, LLC
CARRIE A. CARIATI	Certified Reporters
Registered Professional Reporter	2415 East Camelback Road
Certified Realtime Reporter	Suite 700
Certified LiveNote Reporter	Phoenix, AZ 85016
Arizona CR No. 50355	(480)429-7573
carrie@carriereporting.com	

1                   The following conference was taken on  
2 Thursday, March 9, 2017, commencing at 9:09 a.m. at  
3 the University of Arizona James E. Rogers College of  
4 Law in the Ares Auditorium, Tucson, Arizona, before  
5 CARRIE A. CARIATI, RPR, CRR, CLR, CARRIE REPORTING, LLC,  
6 2415 East Camelback Road, Suite 700, Phoenix, Arizona, a  
7 Certified Reporter in the State of Arizona.

8

9 APPEARANCES:

10 WHO IS KIN? WHO BELONGS?

11 SPEAKERS:

12 Dr. Richard Luarkie (Laguna), Former Governor,  
13 Laguna Pueblo

14 Norbert Hill (Oneida Nation of Wisconsin), Oneida Trust &  
15 Enrollment Committee

16 Patricia Riggs (Yselta Del Sur), Citizen of Yselta Del Sur

17 MEMBERSHIP TO CITIZENSHIP TO NATION BUILDING: WHAT KINDS  
18 OF CITIZENS DO YOU WANT? SET OF ENTITLEMENTS, RIGHTS,  
19 OBLIGATIONS. DOES A NATION HAVE TO HAVE A CITIZENSHIP  
20 STRATEGY?

21 SPEAKERS:

22 Joseph P. Kalt, Ford Foundation Professor (Emeritus) of  
23 International Political Economy and Co-Director Harvard  
24 Project on American Indian Economic Development,  
25 John F. Kennedy School of Government, Harvard University

Rebecca Tsosie (Yaqui), Regents Professor of Law & Special  
Advisor to the Provost For Diversity and Inclusion,  
University of Arizona Law

Stephen Cornell, Ph.D., Professor of Sociology and Faculty  
Chair of the Native Nations Institute

1 MR. HILL: Well, it's -- it is not about  
2 who belongs. Nearly 50 years ago when I had my first  
3 interview out of college, one of the people who I was  
4 interviewing asked me the question: Why are you an  
01:11 5 Indian?

6 And nobody ever asked me that question. I  
7 almost fell off my chair. And I said: Well, it came  
8 with a body. Why?

9 You know, it is a horrible question for a  
01:11 10 job interview and something nobody would ever ask, but it  
11 is a great question. And it is a great question  
12 internally to say why am I an Indian, and -- and a  
13 private question that you would talk about at home at the  
14 kitchen table or with your family and friends.

01:11 15 And -- and so that really started my  
16 question about who are we, but why are we and maybe the  
17 impetus for a book that we are going to publish soon, The  
18 Great Vanishing Act: Blood Quantum in Native Nations  
19 (sic) and the Future of Native Nations.

01:12 20 So -- but what we do know is blood quantum  
21 is not sustainable over time, no matter how you do it,  
22 you know, so that would be part of my -- my answer to the  
23 question.

24 MS. RIGGS: (Native language)

01:12 25 Hello. My name is Patricia Riggs, and I

1 am from the Pueblo Ysleta Del Sur. And basically, as was  
2 stated, our tribe, we just passed a new enrollment  
3 ordinance, and we pretty much did away with blood  
4 quantum. So now it is just dependent on descendency.

01:13

5 So I have a lot to talk about, and I  
6 thought we were going to have 15 minutes, so -- but  
7 basically we live in the middle of the city and we lost  
8 all our land through a series of illegal land takings.  
9 So our tribe, there was a core group of people that  
10 stayed, but a lot left, and because basically they had no  
11 land to live on.

01:13

12 So because of that, we -- and for many  
13 reasons, we were not federally recognized until 1968, and  
14 then on the same day -- talking about who belongs -- we  
15 were recognized in 1968, but on the same day we were  
16 terminated, and it was at the end of the termination  
17 period, so -- and basically they did that so there would  
18 be no trust responsibility and they turned the trust over  
19 to the state of Texas.

01:13

01:14

20 So it was very difficult for us to, you  
21 know, build our sovereignty, build our governance, build  
22 our community. We had no political spirit -- well, of  
23 course, we had spiritual sovereignty. We had no  
24 political or economic sovereignty in which to be able to  
25 -- to rebuild our community. In 1987, we got restored.

01:14

1           So what happened in a restoration act, it  
2 was both a -- a positive move in a new direction, but it  
3 was also detrimental to us in many ways because the same  
4 way that we were terminated 1968, they also put certain  
01:14 5 clauses in our restoration act. And some of those  
6 clauses were, one, membership that will consist of  
7 whoever is on the base roll, and also -- who is on the  
8 base roll and -- and up to -- descendants who were up to  
9 one-eighth.

01:15 10           So that really limited our membership. We  
11 had no -- no authority after that. And then the other  
12 thing is they put a clause in there that the tribe shall  
13 be Public Law 280 as if the tribe had consented, and then  
14 the last thing was just one little statement that said we  
01:15 15 should have no gaming that is illegal in Texas.

16           So what happened is, long story short, we  
17 started looking at statistical data, and we created a  
18 socioeconomic profile, and although we knew that many  
19 children were not getting enrolled, though once we  
01:15 20 started to graph it, it really was in our face.

21           So when we graphed it, usually if you do a  
22 representation of your tribe, it comes out -- in age  
23 groups, it comes out looking like a pyramid, and all your  
24 -- your children are on the bottom because they are the  
01:16 25 -- the next generation and -- and your elders, of course,

1 are -- are passing away, so, you know, it is the top of  
2 the pyramid, but for us, it was a diamond.

3           And so the generation at the bottom was no  
4 longer being represented, and -- on our tribal rolls. So  
01:16 5 that kind of in-your-face graphic was really what started  
6 us to -- to look at -- at -- at reenrollment, so we had  
7 to go back to Congress. And then -- we went back to  
8 Congress. We got our restoration act changed that simply  
9 said that we will have -- our membership will consist of,  
01:17 10 you know -- of, you know, of -- you know, whatever we  
11 want it to be. I don't remember the exact language. So  
12 we took it out to the community, and we did a series of  
13 focus groups, and we also did some questionnaires.

14           And, I mean, for me, the most profound  
01:17 15 thing was the grief and the sorrow and the hurt that we  
16 heard from the people that were not enrolled or whose  
17 grandchildren were not enrolled or whose grandmother --  
18 or whose children were not enrolled. So in a nutshell,  
19 the tribe determined that it would just enroll everybody  
01:17 20 and that there would be no blood quantum, so ...

21           DR. LUARKIE: Good morning, everyone. My  
22 name is Richard Luarkie, and as listed in the -- in the  
23 profile page there, they have me listed as "Robert  
24 Luarkie," so if you call me "Robert" and I don't answer,  
01:18 25 I apologize.

1 MR. HERSHEY: It is Robert? Did you say  
2 "Robert"?

3 DR. LUARKIE: Yes.

4 But I do want to stand at least for my  
01:18 5 opening remarks. We do have a couple individuals from  
6 our pueblo. Ms. Elsie Vile (phonetic) from our  
7 enrollment office, and Mr. Frank Cerno (phonetic), our  
8 tribal secretary, and our pueblo (native language) taught  
9 that when you get up and address, you know, folks in a  
01:18 10 formal environment that you always stand, especially in  
11 respect for our elders, so at least in my opening  
12 remarks, I want to extend that respect to all of you.

13 (Native language)

14 It is good to see all of you here, and I  
01:18 15 am sure our creator is thankful as well for, you know,  
16 what we have been blessed with today. So with that being  
17 said, and the comments that we have been asked to respond  
18 to, you know, I want to be able to maybe cause us to  
19 think about it a little differently.

01:19 20 And as we sit here, I want you to maybe  
21 reflect back a little bit on when we were all children.  
22 We might get in trouble by our parents or grandparents,  
23 get spanked, at least I did, but they didn't just spank  
24 you. They also sat you down and they hugged you and they  
01:19 25 told you why they spanked you. And that conversation

1 wasn't about who belongs, but it was a conversation that  
2 you belong, and you belong because you need to be loving,  
3 you need to be respectful, you need to be mindful.

4 (Native language)

01:19 5 Loving, respectful, family.

6 (Native language)

7 To be of discipline.

8 (Native language)

9 To be of obedience.

01:20 10 That was the requirement for belonging.

11 So it then takes us to that next question of not only you  
12 belong and who belongs but what belongs, and those  
13 principles and values are nowhere in the conversation  
14 when we talk about who belongs in the context of blood  
01:20 15 quantum.

16 So it is very, very important that we  
17 think about it in that context of what did grandma and  
18 grandpa teach us. Where is it that we lost that in the  
19 conversation? You know, as -- as Robert mentioned, you  
01:20 20 know, I had the privilege and the honor -- or the curse,  
21 however you want to look at it -- as serving as governor  
22 for our pueblo.

23 And, you know, in that role, one of the  
24 things that you -- in any tribal leadership role -- or I  
01:20 25 think really in any leadership role, when you are in that



1 kind of realm, whether you did it or not, you get  
2 challenged. You get blamed. But as a governor, I don't  
3 have the luxury of picking and choosing who I serve. I  
4 don't have the luxury of picking and choosing who I love  
01:21 5 as my people. I am not going to say are you one-fourth,  
6 and I am only going to work for you one-fourth of the  
7 day. That -- that -- I don't have that luxury, and I  
8 don't think any tribal leader should.

9           Those that are most critical of us, those  
01:21 10 are the ones that we have to hold closest. Don't drop  
11 them, because they are of value too. And that's what  
12 this whole conversation I think is about when we talk  
13 about blood quantum, and it is time that we have this  
14 dialogue. It is so very important for those that are yet  
01:21 15 to come. That is who we are having it for. Shame on us  
16 if we don't fix this.

17           And -- and so, you know, I think that, you  
18 know, this is really a conversation not about race, but  
19 of our self-value, our self-worth, our self-perpetuation.  
01:22 20 Those are things that are so very precious to us that we  
21 are gifted with. That's what defines us. And I think  
22 those are things that I think is going to be very, very  
23 important as we -- as we move forward with.

24           And I think as tribal leaders when I put  
01:22 25 on a tribal leader hat, if we are not willing to have

1 this conversation for our people, especially in a public  
2 environment where we can all converse, then maybe it is  
3 not our time to lead. We need leaders, not politicians.  
4 And so it is so very critical that we look at it in this  
01:23 5 context.

6 We need to show our people that everyone  
7 has value, whether you are red, blue, pink, yellow,  
8 whatever color you are. That -- that is not the issue.  
9 You all have value. That's -- that should be the  
01:23 10 baseline of the conversation.

11 And so as we go forward, I hope that --  
12 and the conversation that we have this morning -- that we  
13 go back to the brilliance of the gift of our creator  
14 here, here, here (indicating), that we use that to begin  
01:23 15 to forge and frame a new framework of who belongs, what  
16 belongs, most importantly, you belong.

17 Thank you.

18 MR. HILL: I just to -- I just wanted to  
19 go back and think about what we have been doing. You  
01:24 20 know, in our tribe and I think in many tribes, we  
21 normalized our identity around blood quantum, and it is a  
22 box we cannot get out of. It is a box that is very  
23 difficult to get out of. And what we have right now with  
24 the Oneidas of Wisconsin 45 percent of our -- our  
01:24 25 enrollment are quarter-bloods.

1                   Indians marry out more -- not just Oneidas  
2 but marry out more than any other ethnic group. So soon  
3 our mortality rate is going to exceed our birthrate. It  
4 is just a matter of time. And so if we -- we go down to  
01:24 5 an eighth and we still stay in the box, we still have the  
6 same conversation another 20 years later. Then we go to  
7 a 16th, and then I don't know how far you go before you  
8 cannot find Wisconsin on the map, you know.

9                   And I have some handouts here, and I will  
01:25 10 just leave them up here, but a little cartoon by Marty  
11 Toobles (phonetic), but, you know, this is just really a  
12 math problem. And the other side if we designed a  
13 rubik's cube and every one of the boxes has a different  
14 issue and every time you turn it -- you know, so how do  
01:25 15 we find alignment in terms of who we are and -- and how  
16 we got here.

17                   So, again, it is not sustainable over  
18 time. Tribes need to think about 100 and 200 years ahead  
19 without throwing our predecessors under the bus. And the  
01:25 20 problems that we get, we don't have an elephant in the  
21 room. We have three of them in the same house. I mean,  
22 it is the descendants, it is per capita, and it is -- per  
23 capita and -- and money and benefits. And so how do you  
24 deal with all these things at the same time and have a  
01:26 25 conversation so one can -- have conversations so one can

1 make an informed decision?

2 That is what we have been doing for the  
3 last few years is trying to do some community education  
4 so we can get to the point so if we decide whatever we  
01:26 5 decide we know the reasons why we decided in that way.

6 MR. HERSHEY: So tell us what you have  
7 been doing in the community then.

8 MR. HILL: Well, we have been writing a  
9 number of articles in our -- and just to create  
01:26 10 awareness. We've also established to try to find book  
11 and find out what successes --

12 Jill Dorfman (phonetic), would you raise  
13 your hand? She is -- she is from White Earth. And they  
14 went through a process. She can -- she can tell you more  
01:26 15 about it. My co-author, Kathleen -- would you please  
16 raise your hand -- who is -- and we wanted to write a  
17 book about different perspectives of what people are  
18 doing but also have it as a general reader, not as an  
19 academic book.

01:27 20 And we are hoping that Indian studies  
21 programs across the country will embrace it. So it  
22 should -- it should be released in July, at least we have  
23 some information and background, where do we start the  
24 conversation.

01:27 25 We have had two summits in our -- in our

1 reservation, just to create the awareness, and we found  
2 out this is so complex, so political, so emotional, that  
3 I am not sure, number one, where we start, but the  
4 readiness of us to have this difficult conversation,  
01:27 5 because what we have is a -- a race against time, and we  
6 cannot afford not to have the conversation, whatever it  
7 decides, but this affects hundreds of tribes across the  
8 country.

9                   You know, when our full bloods adopted the  
01:27 10 IRA Constitution of 1936, they married the girl next  
11 door, you know, and it is not until World War II where we  
12 have got a lot of mobility that people traveled a lot,  
13 and so different things started to happen with us. So  
14 here we are two and a half generations later, and we need  
01:28 15 to really think in how to reinvent ourselves.

16                   MR. HERSHEY: Patricia?

17                   MS. RIGGS: Okay. Well, I think one of  
18 the most important things is -- as I stated earlier is  
19 that our children were no longer being enrolled, and we  
01:28 20 have a lot of modern-day concerns that we are grappling  
21 with and, you know, building an economy and rebuilding  
22 our pueblo, but the primary thing is that we are also  
23 trying to sustain our culture and -- and sustain our  
24 ceremonies and doing those things that the ancestors  
01:28 25 taught us.

1                   And when your children are not enrolled,  
2 then you are telling them basically that they don't  
3 belong and they also feel as if they don't belong in  
4 those traditional things and they don't belong at  
01:29 5 ceremonies.

6                   So if we exclude them from rolls and we  
7 exclude them as citizens in the same manner, we are also  
8 excluding them in those other things that are dear,  
9 sacred and spiritual to us. So in a sense we are -- we  
01:29 10 are damaging ourselves and we are damaging the future of  
11 our community.

12                   MR. HERSHEY: What were some of the  
13 conversations that you had? How did you organize the  
14 discussion?

01:29 15                   MS. RIGGS: Well, it was a combination of  
16 things. First of all, you know, I like the data thing,  
17 and I like the strategic planning and -- but, you know,  
18 there is things that are core and dear to us. So the  
19 conversations really -- nobody wanted to discuss before,  
01:29 20 right? And so when you have that information, then it  
21 gives you a starting point from where to discuss it.

22                   So first, it became with leadership, but  
23 then we started having focus groups. We were having  
24 questionnaires. We had meetings and discussions started  
01:30 25 taking place at what we call (native language), what are

1 community meetings, and just from there, I think really  
2 it became not about monetary things and services, it  
3 became more about preserving our community and preserving  
4 our culture.

01:30 5 So when we were having those discussions  
6 and we really kind of thought that it was going to go  
7 toward, you know, we can't enroll them because then there  
8 will be less for us, and -- it was only a handful of  
9 comments that went that way. It was -- the primary  
01:30 10 discussion was about, you know, saving ourselves as a  
11 community and our culture, so there was a lot of  
12 discussion that took place around that.

13 MR. HERSHEY: So what was the data,  
14 though, that you were collecting? Was it how many -- how  
01:31 15 much resources were being shared among the community?  
16 Was it what the nature of how many people satisfied the  
17 blood quantum requirement? What was all -- what was the  
18 data you collected?

19 MS. RIGGS: Well, there was a  
01:31 20 socioeconomic profile, which was about population and  
21 also about unemployment, poverty, and those types of  
22 things, but then we realized half of our population  
23 wasn't actually even being captured. And so a lot of  
24 people that were not being serviced, and we basically  
01:31 25 knew nothing about them. So then we decided to include

1 descendents that were not enrolled in that data.

2                   And what we actually found out is because  
3 they had to fend for themselves that they were better off  
4 than those that were enrolled. They had lower levels of  
01:32 5 poverty, lower levels of unemployment. And so there was  
6 also other data that was -- as far as cost factors and --  
7 and projections of how much it would cost and -- but in  
8 the end, it turned out okay because since they were  
9 better off, they had insurance, and they had -- had  
01:32 10 already -- were using other services. So the tribe  
11 didn't actually have to pay as much as they thought they  
12 were going to have to pay, because -- whereas before, we  
13 weren't -- we were necessarily using all our own  
14 resources. Then we looked at other methods in which to  
01:32 15 bill insurance and be the payer of last resort. So it  
16 all ended up okay, you know.

17                   DR. LUARKIE: For -- for the pueblo of  
18 Laguna, you know, I think what brought us to this very  
19 specific conversation of blood quantum, you know, so, you  
01:33 20 know, we -- we have a history of engaging blood quantum.  
21 So in 1908, our pueblo adopted our first constitution,  
22 and in that constitution there was nothing referencing  
23 membership, enrollment, or -- and nothing like that.

24                   Then in the 1949 constitution, our first  
01:33 25 amendment, as part of the 1934 IRA, we saw enrollment,



1 but it was based on the 1940 census, so it was based on  
2 residency and -- and those kind of things. There was not  
3 any blood quantum.

4 Now, in 1958, then we had our second  
01:33 5 constitutional amendment. That one was driven by  
6 economics. So the pueblo of Laguna prior to the 1950s,  
7 probably like most tribes, we didn't have a lot of  
8 economic development going on, but what had happened in  
9 our pueblo is the discovery of uranium and the Anaconda  
01:34 10 uranium mine, one of -- the world's largest open pit mine  
11 at the time and it ran for 30 years. That was the  
12 trigger for blood quantum.

13 So in the 1958 constitution, they -- they  
14 incorporated it -- the one-half blood quantum  
01:34 15 requirement, and so that was -- that reigned for -- up  
16 until 1984. In 1984, we did a third constitutional  
17 amendment, and that constitutional amendment was to  
18 actually lower the blood quantum requirement because we  
19 were beginning to see a flat line in people that could  
01:34 20 qualify for membership. The blood quantum was -- was now  
21 the challenge, and to Norbert's point, it was a  
22 mathematical issue. Right?

23 So we lowered the blood quantum to  
24 one-fourth, and -- and we also instituted in 1984 a  
01:34 25 requirement that if a child -- from the time a child is

1 born, the parents, guardians, or whomever, they have  
2 24 months to enroll their child. If they miss that  
3 24-month period, they had no chance of being enrolled.  
4 So even if they were four-fourths Laguna or whatever, if  
01:35 5 they missed that 24-month period, they could not be  
6 enrolled. So that reigned until 2012.

7           During our administration we began to have  
8 the conversation about, well, that is very inconsistent  
9 with our core values and our principles. It is not  
01:35 10 inclusionary. We are being very exclusive. Because that  
11 24-month period, what if a child is adopted out? It is  
12 not that child's fault.

13           The other piece is that when you look at a  
14 situation, and many of your tribes may be similar to us  
01:35 15 in belief that, you know, especially our -- our elders,  
16 our oldest folks still held to the belief that as a male,  
17 if you married out into another tribe, the expectation  
18 was that you were going to go to your wife's tribe.

19           And in many of those cases, the elders did  
01:36 20 that. They disenrolled at Laguna, went to their wife's  
21 tribe, but maybe life happened, a spouse passes on or  
22 whatever, they want to come home, but there was no  
23 mechanism back.

24           So -- so the 2012 amendment changed that  
01:36 25 and was -- and we were able to bring many of our people

1 back home. So as a result of that amendment, the people  
2 in the community said we need to begin to start looking  
3 at alternative methods other than blood quantum, because  
4 now we have young children in our community that don't  
01:36 5 meet the blood quantum, but all they know is Laguna and  
6 we cannot exclude them any longer. So that is what  
7 triggering our conversation and our -- our focus on this  
8 very important issue.

9 And, you know, I think what is -- what's  
01:37 10 important for all of us to think about is that this blood  
11 quantum element, it is not required by the federal  
12 government. What is ironic is, you know, we look at  
13 things like Public Law 93-638 self-determination and we  
14 assume the responsibilities of the federal government  
01:37 15 programs to run at the same level as the federal  
16 government.

17 Well, have we done that with blood  
18 quantum? Have we 638'd blood quantum and now we are  
19 taking it over and running it ourselves at the same level  
01:37 20 or better than the government? Those are things that we  
21 need to be thinking about, and why is it that we are  
22 protecting something so very -- we are protecting it very  
23 -- you know, with our lives. It is in our constitution's  
24 blood quantum.

01:37 25 But -- and some of you may have seen, I

1 think it was 2012, 2013, the Smithsonian did an exhibit  
2 on blood quantum, and one of the things that it shows in  
3 there is where blood quantum is rooted. Blood quantum is  
4 really rooted in white supremacy. Yet, we are protecting  
01:38 5 it.

6                   Going back to the comment that was said  
7 earlier with the president that we have now, are we  
8 perpetuating that thought process into ideology?

9                   (Native language)

01:38 10                   I am sure know what -- think about it.  
11 Think about it. Think about what we are doing here.

12                   MR. HILL: So this will be the ultimate  
13 act of sovereignty and -- and how we exercise it. You  
14 know, I am going to steal part of Joe Kalt's thunder in  
01:38 15 that are we members of a group or are we citizens of  
16 nations? And if we are citizens of nations, how -- what  
17 is our responsibility? And that is what we have to act  
18 on.

19                   So I remember my very first classroom, and  
01:38 20 maybe you do too. It was at the kitchen table. It was  
21 about the stories. It was about the people who came  
22 before us, about how we belonged and -- and the values  
23 that came with it. That was your first classroom, very  
24 first classrooms.

01:39 25                   It was -- you know, part of it is what we

1 do. We publish articles, and we have meetings. We have  
2 formal -- formal leaders. But it is the informal leaders  
3 that really are going to drive the day, and I think it  
4 has to be inclusive.

01:39 5 But I think there is a silent buzz going  
6 on in our communities. And if they knew what to do, they  
7 would do it, but there is so many things that troubles  
8 this whole conversation and makes it so complex that we  
9 avoid the conflict.

01:39 10 I think there is a collective conflict of  
11 avoidance with the group. I think it happens with  
12 individuals, but I think it is happening with a group.  
13 And so we, again, cannot afford not to change it. Change  
14 is hard. Change is messy. But we are going to have to  
01:40 15 do it whether we like it or not. So -- so it is our  
16 chance to figure out how we survive ourselves.

17 MS. RIGGS: Are we taking questions? I  
18 think there is a lady here and back there.

19 MR. HERSHEY: Absolutely.

01:40 20 SPEAKER: Yes, I have a question. You  
21 brought up something, okay, about the dynamics from the  
22 past --

23 MR. HERSHEY: Excuse me. Can everyone  
24 hear?

01:40 25 SPEAKER: Yes. As the gentleman from the

1 pueblo had brought up what is taking place from the past,  
2 from the present or into the future, now what interesting  
3 is -- or how now with Obamacare was tied to the Indian  
4 Self-Determination Act, and with that being repealed now,  
01:41 5 that is the other fourth elephant that is in the room,  
6 because actually to repeal that now, well, that sets back  
7 the Indian Self-Determination Act and how is that going  
8 to effect now, one, all the dynamics that is taking place  
9 with the blood quantum and also back to the rolls and  
01:41 10 certain groups being is one excluded.

11 So I am from the Wetumpka Alabama tribe,  
12 and so people who do not know actually Wetumpka, that was  
13 going to be the first Chicago before it was decided later  
14 to move it to Chicago, and so due to many of the slaves  
01:41 15 mixing in and building up that area, it was sort of --  
16 well, that blood quantum was instituted to make sure that  
17 that area wouldn't be taken over by both the Wetumpka  
18 Indians and the slaves who were building that town, which  
19 brings up one more question, to immigration.

01:42 20 And so like you said, with Dr. Ben Carson  
21 brought something up how slaves were brought over as  
22 immigrants and we were like human trafficking, and so  
23 that is the issue. I mean, really -- that really doesn't  
24 concern me in that manner, because my ancestors never  
01:42 25 immigrated. We were kidnap victims.



1 think tribes, we are facing the opposite in what they  
2 call emigration, right, the -- the leaving of our people.  
3 So we are losing talent. We are losing capacity. But we  
4 are also contributing to that with blood quantum. You  
01:44 5 know, because while we are saying, well, you can't belong  
6 or whatever, therefore, our people are saying, well, I  
7 have nothing here so I might as well leave. So we are  
8 contributing to that -- that problem. So I think that is  
9 something we are going to have to look at internally.  
01:44 10 And as Norbert said, this is the perfect storm, and we  
11 may be helping it.

12 SPEAKER: (Native language).

13 I'm Mona Bakus. I'm from the Fort  
14 McDowell Yavapai Nation. I currently chair our  
01:44 15 enrollment committee. I also chair our constitution  
16 committee, which is also working on changing our  
17 enrollment in regards to -- you know, quantum.

18 Right now, because we are one of those  
19 small tribes that -- and I am sorry for giving you my  
01:45 20 back but -- but we are dealing with, you know, per  
21 capita. We get that every single month.

22 And now that -- just like -- I'm sorry,  
23 you know, your tribe where there was -- you know, our  
24 kids that are coming up because we are marrying outside  
01:45 25 of our tribes, that blood quantum is going down and down,





1 you have to be one-quarter Fort McDowell Yavapai, which  
2 created so many problems because everybody there thought  
3 they all belonged or that they we were 100 percent Fort  
4 McDowell Yavapai. You know, granted, we do have our --  
01:47 5 our sister tribes, Camp Verde and Prescott, but, I mean,  
6 we don't even include them in our Yavapai blood, because  
7 per capita has come to the point where it is just -- it  
8 is separating us and separating us and separating us.

9 And so now we are -- I am dealing with the  
01:47 10 dilemma of how can I represent -- how can we represent  
11 our whole tribe and hopefully maybe going to a non- --  
12 you know, no blood quantum, but you just have to do the  
13 descendency. How did you deal with that? I mean, what?  
14 Surveys and --

01:47 15 MS. RIGGS: Well, the -- first I think it  
16 was multiple methods. I think if you just try one method  
17 and one way of reaching out to the community that it  
18 doesn't work, so you have all kinds of different  
19 stakeholders in your community, and, I mean, they are not  
01:48 20 really stakeholders but people that represent your  
21 community. Right?

22 So you have to think about different  
23 methods to reach each one, like, you know, your council  
24 is going to be different from the elders, different from  
01:48 25 the youth that is not on rolls.

1                   So the other thing that happened with us  
2 is we were able to demonstrate what would be a crisis.  
3 So by graphing that and demonstrating that what was going  
4 to happen to us in the future, then we were able to show  
01:48 5 a representation of it, but -- because we went through  
6 the same thing.

7                   We've -- we have been back and forth with  
8 the courts over our gaming. So there was a period --  
9 right now, we don't have gaming. And there was a period  
01:48 10 that we had per capita, and during that period we had  
11 basically the same thing in enrollment where there was a  
12 clause that said if you didn't enroll your child by the  
13 time they were one, they wouldn't be enrolled. Right?

14                   So after gaming closed, the mindset kind  
01:49 15 of changed, okay? Because gaming, not just for us but  
16 for any tribe is, you know, not 100 percent certain. So  
17 I think not having the resources and losing that resource  
18 made us rethink how we were going to do things.

19                   But basically is we reached out to council  
01:49 20 first, showed them the data. Then we went out into the  
21 community, you know, went to the elders center. We did  
22 different questionnaires. We also did different focus  
23 groups.

24                   We started talking to youth. We were  
01:49 25 having camps and -- where we asked them discuss it,

1 discuss it with your parents, you know, how do you feel?  
2 But also people don't want to do questionnaires. So a  
3 lot of times focus groups work better, but then we also  
4 gave incentives.

01:50 5 SPEAKER: Oh.

6 MS. RIGGS: And, you know, sometimes we  
7 would just turn it into a raffle, and -- and they did it,  
8 and other times we gave an incentive to anybody who  
9 answered a questionnaire.

01:50 10 SPEAKER: Wow.

11 MS. RIGGS: So -- and especially your  
12 gaming, you know, you have the resources for that, but I  
13 think it was more of a discussion and talking about what  
14 is this going to do our future? Because, I mean, what is  
15 your community going to look like 50, 100 years from now  
16 if -- if they are not enrolled? I mean, who is going to  
17 be your leaders? Who is going to be on tribal council?  
18 You know, who -- you know, is going to run the programs?

19 But more importantly, who is going to  
01:50 20 pray? You know, who is going to pray for us? Who is  
21 going to do the ceremonies? So having discussion in both  
22 the technical and the core values and, you know, how are  
23 -- basically we were denying our children. So, you know,  
24 like I said, it is a combination. You have to do all  
01:51 25 kinds of things to be able to reach people.

1                   SPEAKER: See, in our situation because  
2 our elders are this much (indicating) and then -- because  
3 our elders are only about this much (indicating), and the  
4 rest -- then there is that in between group and, of  
01:51 5 course, the younger ones that are there, it is trying to  
6 reach the younger ones and a lot of them are finding they  
7 are just community members. They are not even part of  
8 our tribe, but yet they speak better Yavapai than I do,  
9 you know.

01:51 10                   And then, of course, the elders, we have  
11 to speak to them in a different tone, because they are  
12 not all English-based like I am. If I tried to talk to  
13 my elder, it is kind of like they -- they tell me: Oh,  
14 you talk funny.

01:51 15                   They tell me I talk funny because my  
16 enunciation is so different than what they are used to.  
17 So we have to talk to them, like, in a focus group. We  
18 went to the elders and explained and explained and  
19 explained. And some of them they were, like: Oh, I  
01:52 20 don't want to hear it. I don't want to hear it.

21                   (Native language)

22                   We are all Indian. We are all this.

23                   And then our young ones, you know, they --  
24 for them, the ones that are enrolled, they are beginning  
01:52 25 to tease those that are not enrolled, because, hey, I

1 have something that is going to be given to me when I  
2 turn the age of 18.

3                   We have done incentives. Our incentive is  
4 food, you know, so -- okay, you know, we try to invite  
01:52 5 them. We try to tell them, but it is always like we just  
6 get to a certain point, and now it is just such a  
7 frustrating thing now that, you know, are we going to  
8 change? Are we going to do this?

9                   And based on what we currently have --  
01:52 10 since the onset of our new enrollment guidelines from  
11 2000 till now, we have enrolled less than 100 people.  
12 And the rest of them, because they don't meet that  
13 one-quarter Yavapai, however, they are full blood Native  
14 Americans, although, they may be split up, they might be  
01:53 15 an eighth Zuni, an eighth Apache, an eighth Navajo, an  
16 eighth this, an eighth that, but all their bloods  
17 together, they are 100 percent, but yet they cannot meet  
18 the current enrollment.

19                   If we can get our people or somebody to  
01:53 20 say it is okay to do this, it is all right, because we  
21 are still all together, and I am still running into that  
22 problem. I mean, it is such a frustrating battle. I  
23 don't know if anyone else is going through the same thing  
24 that we are, because you know -- you all know elders.  
01:53 25 These people were here this, they are here trying to

1 separate us, and being part of the enrollment community  
2 because it is one-quarter Fort McDowell. We have to  
3 break down their family, their family tree, how much  
4 blood did they have, how much is this, and some families  
01:54 5 don't share their history because they don't know. They  
6 don't know.

7                   Either it is because, you know -- I'm  
8 sorry. Mr. Luarkie, was just -- because they left and  
9 went over here, and then they don't know their own --  
01:54 10 their elders don't know that their father or mother or  
11 grandmother have left and they have family over here.

12                   I mean, sometimes they just don't know  
13 because they are not -- that family doesn't want to share  
14 such private information. And then, of course, I am  
01:54 15 accused, because I am chairwoman of the committee, that I  
16 have taken away their Indian blood, but in actuality  
17 because of the requirement that is there, that is what we  
18 have to go by, but, again, it is such a frustrating  
19 thing.

01:54 20                   I appreciate -- I have not thought about  
21 the raffle and other stuff, but, you know, as far as  
22 incentives, things like that, you know.

23                   MS. RIGGS: I mean, also -- I mean,  
24 raffles, but, I mean, I do a lot of things where I used  
01:55 25 to put their grandkids on the pictures and, you know, do

1 presentations where these are people. These are your  
2 people. This is who you are hurting.

3 So you also -- you -- you tear at those --  
4 at their heartstrings also and -- and make sure that you  
01:55 5 just constantly talk about things that are important as  
6 far as culture, you know, as far as, you know, keeping  
7 sacred trusts and those types of things as well.

8 SPEAKER: Thank you.

9 MR. HERSHEY: You had something you wanted  
01:55 10 to bring up now? Yes? Or you want to wait till next  
11 session? What do you want to do? Your call.

12 SPEAKER: I will do it right now.

13 MR. HERSHEY: Yeah, we will do one more  
14 right now. We are going to take a very short break and  
01:56 15 then come back and we will have more opportunity for you  
16 to engage.

17 SPEAKER: (Native language)

18 Greetings, everybody. My name is  
19 Gosinahowee Skidier (phonetic). I am from the Mohawk  
01:56 20 nation. I come from Montreal -- just outside of  
21 Montreal. My reservation is called Caughnawaga.

22 When I looked at the agenda, Oren Lyons  
23 was supposed to be here as a brother from the Onondaga  
24 nation who is a part of the Haudenosaunee, the Iroquois  
01:56 25 confederacy, to which I am a part of, and I just thought



1 it would be important to get into the conversation of  
2 what is happening here, my Onedia brother.

3 Caughnawaga is in a very unique situation  
4 where our membership is distinct from our citizenship,  
01:56 5 and I think there is a real distinction there because our  
6 membership is tied to benefits and services. And we were  
7 -- when we were creating our membership, there was a lot  
8 of things that played into it.

9 The Mohawks were very known for building  
01:56 10 up the New York skyline and ironwork. What did the  
11 requirement of crossing the border say? You had to be  
12 50 percent to work in the U.S., the Jay Treaty.

13 So I guess through time when a lot of our  
14 men were going and they were marrying, you know, women  
01:57 15 who were not Mohawk and bringing them back to the  
16 community, we were seeing an influx, and the community  
17 was like what is going on? We have this small territory,  
18 and I guess the land regime thinking was very different.

19 So the community created a moratorium on  
01:57 20 mixed marriages. If you married somebody who was not  
21 Mohawk or native, you had to leave the territory. Women,  
22 because of the Indian Act -- don't forget, I am from  
23 Canada, the Indian Act is the most oppressive legislation  
24 to control Indians -- the women lost their rights. They  
01:57 25 were disenfranchised. They were disenrolled. We use

1 registration in Canada.

2                   So the community said from now on, it  
3 doesn't matter if you are a man or a woman. You are  
4 going to lose. So that was a community rule. And over  
01:58 5 time now, the children that are born of these marriages,  
6 the rule was 50 percent blood quantum for a very long  
7 time.

8                   And in 2003, we amended our rules to  
9 become ancestry. Four out of eight great grandparents  
01:58 10 have to be indigenous, which people will say, well, that  
11 is blood quantum in disguise because you still have to a  
12 meet a criteria.

13                   So to run for our tribal council, you have  
14 to be 50 percent blood quantum. The community is very  
01:58 15 strong on that. When you talk about doing consultation,  
16 we have been in consultation with the community since the  
17 '80s, and the community is still very strong on this --  
18 this criteria of, you know, ancestry, and strong blood  
19 quantum, strong cultural ties, living in the community.

01:58 20                   But Canada has become very problematic  
21 because they create -- they continue to open up the rules  
22 for registration and we have 4,500 people who are  
23 registered as Mohawks who do not meet our criteria in the  
24 community.

01:59 25                   So there is definitely a disjoint and a --

1 how would you say -- a power control. So I just wanted  
2 to put that in your minds how strongly Caughnawaga's  
3 rules are when it comes to membership. You marry out.  
4 You leave the territory. You have to meet four out of  
01:59 5 eight great grandparents to be a member.

6 A citizenship of the Mohawk nation I think  
7 is -- is totally different, and that is a lot more open  
8 and welcoming, but in terms of being entitled to  
9 benefits, services, land allotments, who can live,  
01:59 10 residency are all tied to -- to being qualified to being  
11 four out of the eight great grandparents. Very strict  
12 rules.

13 MR. HERSHEY: Thank you very much.

14 Did you want to respond?

01:59 15 MR. HILL: Well, no. I -- I just wanted  
16 to say in closing thank you for that, and -- and, really,  
17 this becomes a defining moment for many tribes, and it  
18 probably is the most important issue that we are going to  
19 talk about this century, you know.

01:59 20 And our first job as -- as Indian citizens  
21 of our own nations is how do we protect the home base?  
22 How do we protect our own people first? You know, not  
23 how do we protect benefits, but how do we protect our  
24 people in -- in -- in 100 and 200 years from now?

02:00 25 The problem is there is no silver bullet

1 here, you know, and -- and we keep looking for a silver  
2 bullet. There is not one. The silver bullet is the --  
3 is the heartfelt conversations that we have with each  
4 other, and so we listen to each other, until we figure  
02:00 5 what is that combination that makes us whole again, and  
6 this is just tearing us apart.

7 MR. HERSHEY: Thank you. We are going to  
8 wrap up at this time, this particular session.

9 I will tell you, you asked me about Oren.  
02:00 10 He called me a couple days ago. He is recovering from  
11 surgery, and so he wanted to be here very much, and he  
12 expressed that interest as far back as October of last  
13 year, but he is getting better. So we should all be  
14 sending our kind wishes to him in that regard.

02:01 15 So what we are going to do right now, the  
16 program calls for a 15-minute break. Let's try to make  
17 it 10 to 15, try to be back here as close to 10:30 as we  
18 can. Sorry.

19 DR. LUARKIE: One quick comment before we  
02:01 20 break --

21 MR. HERSHEY: Wait, wait.

22 DR. LUARKIE: Just real quick comment as  
23 we conclude and wrap up this particular piece of the  
24 panel. We always talk about the children are our future,  
02:01 25 and I think many of us believe that deeply, but as

1 grandparents in this particular realm, you are the  
2 future. You have the ability -- you have the ability to  
3 make that determination today of who belongs in the  
4 future.

02:01 5                   We had an experience in Laguna where when  
6 this blood quantum went in in 1958, the governor at the  
7 time fought very hard to move it forward to make it  
8 happen. Leapfrog to modern day when I was serving as  
9 governor, that former governor came to one of our  
02:02 10 meetings and chewed us out because now his grandchildren  
11 cannot get enrolled and asking us to fix it.

12                   So grandparents have a very special role.  
13 I think those of you who are grandparents, I want to  
14 leave you on the note that as grandparents -- my  
02:02 15 grandparents raised me: Know that you are loved, you are  
16 very special people, and with that specialness, think  
17 about those that the great grandkids are yet to come, and  
18 lastly, I want to acknowledge Casey, one of my brothers  
19 from the pueblo in the corner. Thank you for your  
02:02 20 attention and the opportunity to speak to you this  
21 morning.

22                   MR. HERSHEY: You stoked something I think  
23 is really important to remember. All of you who have  
24 been involved in traditional knowledge, oral history, you  
02:03 25 are creating oral history today. 100 years from now they

1 will be talking about your oral history as to what  
2 happened within your communities today. So your ethics  
3 of today would inform the future.

4 And, Casey, welcome. Hold him up Casey.

02:03 5 Real quick break, okay?

6 (Recess ensued from 10:26 a.m. until  
7 10:52 a.m.)

8 MR. HERSHEY: Continuing with this  
9 discussion of who belongs, what types of citizens do you  
02:29 10 want, we have some amazing authors and people here that  
11 have been involved working in communities extensively for  
12 many, many decades.

13 So to my immediate left, Rebecca Tsousie.  
14 She is a regents professor here at the University of  
02:30 15 Arizona. She is also the special vice president to the  
16 provost for diversity and inclusion.

17 Close? It took me -- it took me three  
18 weeks to pronounce where I worked on the Navajo  
19 reservation, so I got close anyway now in English and  
02:30 20 everything.

21 And she is one of our faculty members. We  
22 stole her from ASU. And we are so absolutely delighted  
23 to have her here too.

24 In the middle, Stephen Cornell, who is a  
02:30 25 professor of sociology and is the faculty chair of the

1 Native Nations Institute, former director of the Udall  
2 Center, and has been involved extensively along with  
3 Joseph Kalt, who is the Ford Foundation professor from  
4 Harvard University.

02:31 5 And these are all extremely close friends,  
6 and along with Steve and Joe, they founded the Harvard  
7 Project on Indian Economic Development for the Kennedy  
8 School of Government, and they have been visiting and  
9 working on -- with native nations for years and years and  
02:31 10 decades and have contributed substantially to all of our  
11 knowledge, and they have been significant mentors to us  
12 all. And I know that some of you know their work and  
13 they also -- and have also taken classes from each of  
14 these folks.

02:31 15 So with that bit, what do you got to say,  
16 folks?

17 MR. KALT: Thank you, Robert -- except,  
18 Steve, his remarks make us sound old. Many, many  
19 decades. Many, many decades --

02:31 20 MR. HERSHEY: No, no, decades and decades,  
21 just -- it could imply two.

22 MR. KALT: All right. Well, thank you  
23 very much.

24 As usual, Steve and I, in particular, seem  
02:32 25 to serve a slight role of working across Indian country

1 and working in so many different communities and often  
2 describe our job as nothing more than being reporters.  
3 We try to listen to what people say and then synthesize  
4 and package it back up so different tribes can learn from  
02:32 5 each other.

6 And so what I want to talk about today is  
7 a little bit about what we are seeing around this issues  
8 of blood quantum, citizenship, enrollment and -- and pick  
9 up the themes that we see out on the ground, if you will,  
02:32 10 from so many tribes.

11 As Norbert Hill pointed out, the blood  
12 quantum criteria under which so many tribes operate or at  
13 least have operated under for so long, the blood quantum  
14 criteria of enrollment, citizenship, membership has its  
02:32 15 origins in a colonial power's need to figure out who they  
16 were going to give rations to, who they were going to  
17 imprison and who were they were going to force onto  
18 reservations and so forth and so on, and it is becoming a  
19 form of slow de facto termination of tribes.

02:33 20 My colleague at Harvard -- in fact,  
21 Norbert's daughter Megan -- Megan, you tell us I think by  
22 2016, there may be no one left in Oneida at the current  
23 rates of -- of the dropping of blood quantum.

24 I was once -- I do a lot of work up at  
02:33 25 White Mountain Apache, have for many years. I'm chairman



1 of the board of one of their corporations, and the  
2 chairman up there Ronnie Lupe, good friend of mine, at  
3 one point, they changed their constitution up at White  
4 Mountain to change the blood quantum requirement, and I  
02:33 5 asked: Why?

6 And the chairman of the tribe said: Well,  
7 because I looked around and none of my own grandchildren  
8 could be members of the tribe.

9 And I -- I said: What is going on?

02:33 10 And he said: It's because kids have cars.

11 I said: What?

12 He said: Yeah. They get in the car.

13 They go down to Phoenix. They meet somebody. They fall  
14 in love -- or maybe it is not even love, but they have  
02:34 15 kids, and the person they fell in love with may or may  
16 not be a native at all or maybe not of that particular  
17 tribe.

18 And -- and that problem is not going to go  
19 away. The cars are not going to go away and the kids are  
02:34 20 going to keep falling in love, and so this -- this is a  
21 true challenge for Indian country. It varies a lot. The  
22 tension around it varies a lot depending on how far that  
23 drive is in the car.

24 More rural tribes, there is often this  
02:34 25 very strong, "Oh, my God, we are going to stick with

1 blood quantum." Okay. Pat Riggs is talking right in the  
2 middle basically of suburban El Paso, Texas, well, of  
3 course, the kids, they don't -- they can just walk across  
4 the street. They don't even need to have a car. And so  
02:34 5 you have this -- you have tremendous differences across  
6 tribes, but -- but what we would like to focus on in our  
7 remarks today is this issue of not just membership, but  
8 citizenship.

9 We, of course, in our work focus a great  
02:35 10 deal on this phrase, this challenge of nation building or  
11 nation rebuilding, and it is pretty obvious that clubs  
12 have members, but nations have citizens. Nations have  
13 citizens.

14 And that is a subtle change in people's  
02:35 15 language because we all recognize when we are out on the  
16 ground that those words of registration or enrollment of  
17 "I am a member," et cetera, it has just become the  
18 language of the field.

19 And, yet, at the same time we are watching  
02:35 20 native nation after native nation trying to rebuild  
21 itself as a self-governing -- as a political entity, and  
22 so the challenge in many ways is to try to come up with  
23 answers that not only answer the narrow question of who  
24 is in and who is out, a question that tribes have to  
02:35 25 answer. One way or another, it has to be answered,

1 because there will be decisions on who gets the housing,  
2 who gets the per cap.

3 We may not like it, but it will happen.

4 Tribes have to answer that question. But at a deeper

02:36

5 level, we are at a time in history in which tribes are  
6 struggling one way or another to try to build citizens,  
7 and we want to talk a bit about that.

8 Megan Hill and I teach a class back at

9 Harvard, and every year -- on -- on nation building. And

02:36

10 every year we give the students a mock case. Actually,  
11 we are right now we are using the White Earth case with  
12 its constitution and attempts to change various aspects  
13 of citizenship and political representation.

14 The class is made up 50 to 60 students

02:36

15 from all over the world, all ethnicities. I usually say  
16 all of the native students at Harvard take the course,  
17 but that doesn't make a lot because Harvard doesn't do a  
18 very good job at recruiting native students, but we have  
19 students from Africa, from Latin America, from, you know,  
02:37 20 Chicago, from Detroit, from Moscow, from -- from all over  
21 the world.

22 And we give them a case in which we

23 basically put them in this position of being a tribal

24 council, and the tribal council is trying to make

02:37

25 decisions on enrollment, membership, who is going to get

1 enrolled.

2                   And many of you have probably had this  
3 experience. Steve and I do this all the time. I go out  
4 and I get invited to come to talk to tribal council. And  
02:37 5 these are true stories. I won't name the particular  
6 tribe I have in my mind at the moment.

7                   "Okay, Joe, you will come into the council  
8 and talk at 10:30 in the morning." I am sitting back in  
9 the room waiting, and at 10:30 in the morning they start  
02:37 10 a conversation whether Rebecca here can be a citizen of  
11 our tribe -- a member of our tribe. And they end up in  
12 debate, and it goes on and it starts at 10:30 in the  
13 morning, and at 10:30 the next morning we are eating up  
14 tribal council times -- time on individual decisions  
02:37 15 about Rebecca's future. I am going to pick on Rebecca.

16                   We put the students in our class in this  
17 kind of situation where they have got to make their  
18 decisions. And it is very interesting. We do this to  
19 try out to draw out some of the themes that are already  
02:38 20 out on the table here: What does it mean to be part of  
21 us rather than not us, whatever our group is.

22                   And I used to watch the students debate,  
23 and they would debate. Again, I am picking on Rebecca.  
24 Well, is she well-educated or not? Does she speak the  
02:38 25 language? Has she ever lived here? All these things. I

1 used to keep a list of the attributes that these students  
2 from all over the world from all different kinds of  
3 cultures and all different nations, what were they  
4 thinking when you posed them this question of whether  
02:38 5 someone belongs as part of us or not?

6                   And it was interesting. I quit keeping a  
7 list after a few, because it was always exactly the same  
8 thing. Apparently, for us human beings, it is a  
9 complicated set of attributes that make us feel like we  
02:38 10 are part of a community and make us want to have someone  
11 in our community and feel like, yeah, they are part of  
12 us.

13                   You heard the story from Yselta Del Sur  
14 pueblo where in one fell swoop, as they say, you  
02:39 15 basically doubled the population of -- of your tribe.  
16 You went from adding 1,600 members to about 1,700 members  
17 like that.

18                   Well, why? Because you felt like, well,  
19 those 1,600 who were not enrolled, they really were part  
02:39 20 of us, but the list of things that makes us part of us is  
21 a complicated thing for us human beings.

22                   Some of it is related to blood quantum.  
23 Often asked among our students: Well, what family is she  
24 from? You know -- but it is also tied up into politics.  
02:39 25 Is she from an important political family? Also tied up

1 in some sense of participation in our values.

2 Has she ever lived here? At least -- why  
3 do you ask that question? Because, well, if she has  
4 lived here, at least she has some idea what we are about.

02:39 5 Has she ever participated in ceremonies? Does she still?  
6 Is she just coming here to be a burden? She just wants  
7 the per cap or to get at the front of the housing line or  
8 whatever it is or -- oh, what is her education? When you  
9 ask that, does she have something to contribute to us.

02:40 10 Oh does she have any record -- these are  
11 all things that these students ask. Any record of  
12 accomplishment? Oh, yes, she has won all these awards.  
13 She is a wonderful human being. What we are doing there  
14 as human beings is trying to figure out, No. 1, does that  
02:40 15 individual share some identity and -- and some values?  
16 Whatever those values might be.

17 And you can picture this in a class of  
18 students from Africa, Latin America, Indian country,  
19 white America. Everybody is asking the same questions  
02:40 20 because everybody is struggling with this issue of  
21 identity, and identity is tied up with a sense of values,  
22 more fundamentally.

23 But we are -- the students are also asking  
24 questions about burden and contribution. Will that  
02:41 25 individual come and help our community, and in that sense

1 fulfill duties as a citizen of a community, not just  
2 being a member who takes perhaps but never contributes,  
3 but is that individual a citizen who will contribute to  
4 the community in some way?

02:41 5                   And so what from -- what -- what I think  
6 we see is -- in fact, is a discussion increasingly around  
7 Indian country but around the world and -- who raised it  
8 -- Gabe raised it -- our current president of the United  
9 States. You see this in the United States right now,  
02:41 10 right, of -- of -- we have murders now that occurred last  
11 week, "Go back to your own country," and some guy gets  
12 shot in his own driveway.

13                   You are watching a culture fight with  
14 itself over these attributes that either make us part of  
02:41 15 this group or not part of that group. The challenge in  
16 Indian country is to not only answer that question but at  
17 the same time work on a project of turning members into  
18 citizens, turning members into citizens, so that they are  
19 not just burdens on the community, not just taking, but  
02:42 20 also fulfilling the jobs of public participation,  
21 participating in the decisions of the community,  
22 contributing to the future of the community and -- and  
23 the children.

24                   So in our view, this challenge that Indian  
02:42 25 country is in the middle of around enrollment is actually

1 part of the bigger challenge of nation building. That is  
2 because it is really the challenge -- you know, if you  
3 are going to walk the walk -- you know, anybody can talk  
4 the talk. I am a nation. But if you are really going to  
02:42 5 walk the walk, then this -- these decisions become quite  
6 concrete.

7                   And I hear Ms. Bakas talking about what  
8 you are going through, right? They are very concrete  
9 decisions that have to be made, but they are fundamental  
02:42 10 to the future of a nation. If there's -- why is it such  
11 a challenge?

12                   Well, here you see the legacies of  
13 colonialism today, because we have all read, and many of  
14 you -- obviously not native, but I have not lived through  
02:43 15 it -- but you see it out there, right? The attempts over  
16 history to stomp out native culture, stomp out native  
17 language, stomp out native ceremony, stomp out native  
18 identity.

19                   One thing we don't talk about enough is  
02:43 20 these colonial powers stomped out native governance.  
21 They stomped out native governance. How did the -- every  
22 community in the world that hangs together for any time  
23 at all has some form of governance.

24                   They have got some way of making  
02:43 25 collective decisions. Are we going to go here? Are we



1 going to go there? Are we going build a new health  
2 clinic or put our resources into housing? There is all  
3 kinds of group -- group decisions that we human beings  
4 make.

02:43 5 And Indian country had mechanisms  
6 historically for doing that. Steve Cornell has written  
7 an interesting paper called Even Wolves Had a  
8 Constitution. Many -- we work together as collectives.  
9 We do those things.

02:43 10 But if you look at history, what we don't  
11 talk about enough is that there was this systematic  
12 effort of not only trying to take away language and  
13 ceremony and religion and culture but take away the  
14 institutions of governance, because if tribes had  
02:44 15 governing capabilities, then they really have the power  
16 to resist and to rebel. And so you have this history of  
17 colonial power systematically stomp -- trying to stomp  
18 out tribal governance.

19 A good friend of ours, he has been  
02:44 20 chairman of the Honoring Nations Board, Regis Pecos,  
21 former governor at Cochiti pueblo and governor of the  
22 Honoring Nations Board, chairman of the Honoring Nations  
23 Board, he says to us one time: You know, all of my kids  
24 in high school get New Mexico high school civics rammed  
02:44 25 down their throat. All my kids -- Cochiti pueblo he is

1 talking -- all my kids, they could find the county seats  
2 of New Mexico on a map, but they can't find their own  
3 reservation.

4                   What we need, he says, is Indian civics.

02:44 5 That is the development of knowledge not only of language  
6 and culture and values but of these mechanisms of  
7 collective togetherness in a sense, collective  
8 decision-making, how we move forward and not backward as  
9 a group.

02:45 10                   And so there has been this empty hole out  
11 there for so much of Indian country because so many  
12 younger people grow up with no knowledge, for example, of  
13 their own tribal government, for better or worse. There  
14 is no knowledge about, no engagement with it.

02:45 15                   The citizens -- the members, I should say,  
16 the members don't pay attention. Again, you were talking  
17 about how hard it is to get participation in these  
18 efforts. A lot of it comes from this lack -- this empty  
19 hole that has been left out, so that young -- and at  
02:45 20 younger ages, people are not learning what it means to be  
21 a citizen of a nation, to be a citizen of a nation.

22                   There is very interesting research. I am  
23 on the board of something called the National Institute  
24 for Civil Discourse. It was created when -- remember  
02:45 25 this U.S. congresswoman, she was from Tucson, she got

1 shot at a shopping mall up here, Gabby Giffords.

2 This group was formed after that in -- in  
3 trying to improve civility in our discourse. And we know  
4 some of the incivility that goes on out there, whether it  
02:46 5 is in Indian country or not. Real interesting research  
6 coming out of that group.

7 Turns out that young people at the age of,  
8 like, 14, 15, 16, whether they know or not, are playing  
9 over in their minds kind of self-images of what it means  
02:46 10 to become an adult, and what we are finding in mainstream  
11 America, the demise of civics education causes a rise in  
12 this incivility, because kids never grow up being taught  
13 what would it mean to be a citizen and have  
14 responsibilities as a citizen and have duties -- have a  
02:46 15 duty to get yourself informed about who you are voting  
16 for, get yourself involved in the things that matter to  
17 us as a community.

18 And Indian country lives this in spades  
19 because if they ever get high school civics, it is  
02:47 20 somebody else's -- it's the state of New Mexico's high  
21 school civics or state of Wisconsin's high school civics  
22 that tends to get rammed down the throat of native kids.

23 And so one of the challenges here -- and I  
24 will turn it over to Steve and he will talk more about  
02:47 25 this -- is how do nations, particularly in this case

1 tribal nations, go about this challenge of taking members  
2 and helping them become citizens of their nation?

3 MR. CORNELL: Thank you, Joe.

4 And I am going to echo a certain amount of  
02:47 5 what Joe said. This question of members versus citizens,  
6 the first time I was confronted with that was actually by  
7 Oren Lyons, and it was at a breakfast about four years  
8 ago, and Oren said to me: Are you a member of the United  
9 States?

02:47 10 It was a great question. Are you a member  
11 of the United States?

12 And then he said to me: At Onondaga, we  
13 are not a club.

14 He said: We don't have members. We are a  
02:48 15 nation. We have citizens.

16 Now, that may not be the most comfortable  
17 language for everyone, the language of citizenship. I  
18 know Rob has raised issues about that -- the use of that  
19 term, and I think there are some people who find that a  
02:48 20 useful term. So I am going to use Oren's language, but  
21 if it is not something you are comfortable with, think  
22 about kinfolk or relatives or whatever seems to express  
23 that relationship that you are trying to build within a  
24 community.

02:48 25 But that conversation that morning got me

1 thinking about this question that Joe just raised of what  
2 -- what does it mean to be a citizen? If you look at  
3 most Western countries and you look at what citizenship  
4 involves and the conversation about citizenship, a lot of  
02:48 5 it is about rights. It is about entitlement. I am  
6 entitled to the protection of the laws. I have the right  
7 to vote. I have a right to trial by jury. Because I am  
8 a citizen, I get this.

9                   And what we don't hear very much in that  
02:49 10 conversation is: What do I give? What are my  
11 obligations? What are my responsibilities as a citizen?  
12 Now, there are some exceptions to that. I was reading  
13 not too long ago about the Constitution of Estonia, this  
14 Eastern European -- sorry, actually Western Europe Baltic  
02:49 15 country that came out from under the domination of the  
16 Soviet Union in 1991.

17                   They wrote a constitution in 1993. They  
18 revised it in 2003. It actually says something about  
19 responsibility. It talks about how citizens of Estonia  
02:49 20 must be willing to defend the country. They must  
21 preserve the natural environment. You are expected to  
22 take care of your kids. That is fairly rare, but even  
23 here in the United States, we think you have got an  
24 obligation to vote and ideally to vote in an informed  
02:49 25 manner.

1                   You are obligated to pay your taxes and so  
2 forth, but a lot of that discussion is about the  
3 relationship between the individual and the state. It is  
4 not really about the relationships among those who are  
02:50 5 part of the community, the relationships that are  
6 internal.

7                   And it seems to me that as we are watching  
8 nations of not only in North America but in some other  
9 parts of the world, indigenous nations reclaimed  
02:50 10 self-determination as a right and as a practice,  
11 reclaimed self-governing power as something substantive,  
12 that is real, that is jurisdictional, we are also seeing  
13 many of them rethink or reject, I should say, that notion  
14 of citizenship, that it is about the relationship between  
02:50 15 the individual and the state or between the tribal member  
16 and the tribal government, and begin to think about it in  
17 terms of what are the relationships among us as part of  
18 the community, what do we owe to each other as a result  
19 of that set of relationships.

02:51 20                   And I think we are -- what it really does  
21 is it -- it makes us realize that those relationships are  
22 the ones that matter, that the community consists of  
23 persons who share ideally a very great deal. They share  
24 identity. They share these interwoven obligations  
02:51 25 arising from shared cultural practices and values, from

1 their relationships with each other, from a shared  
2 history, or at least a shared understanding of that  
3 history and its impact.

4                   So that while you might not be from the  
02:51 5 res or grew up on the res, you understand what happened  
6 to people who did and they understand what happened to  
7 you, when you had to leave because there were no jobs or  
8 whatever else happened to you in your life, there is that  
9 shared understanding of what we have been through as a  
02:51 10 people that becomes part of the -- the sort of core and  
11 fabric of your community. And those are the relations  
12 that matter most.

13                   And the political organization of the  
14 nation, this thing we call tribal government, it emerges  
02:52 15 out of that. It is simply an instrument the community  
16 uses for self-defense, to promote its interest, to  
17 interact with outsiders perhaps, but what really matters  
18 is those relationships within. It is not between the  
19 individual and the tribal state. It is the relationships  
02:52 20 among the people who compose that community.

21                   When he was chairman of the San Manuel  
22 Band of Mission Indians, Deron Marquez once said that  
23 tribes have the ability to define citizenship -- he  
24 called it citizenship. He said we have the ability to  
02:52 25 define citizenship differently beyond the modern

1 understanding. He was really urging creative thought  
2 about what an indigenous community's citizenship might --  
3 might be.

02:52 4 Joe mentioned Regis Pecos, former governor  
5 in Cochiti pueblo, and he said at a meeting once that  
6 citizenship for his community involves a commitment to  
7 care for, preserve and enact the core values of the  
8 community. Care for, preserve and enact the core values  
9 of the community.

02:53 10 To be part of the community as Regis was  
11 saying is to take on certain commitments and expectations  
12 of behavior. He says this is what citizenship at Cochiti  
13 means. If you want to be a Cochiti citizen, that is the  
14 commitment you make.

02:53 15 And I think the emphasis in the western  
16 sort of liberal democratic conversation about  
17 citizenship, it obscures or downplays those kinds of --  
18 what to me are fundamentally indigenous notions of what  
19 citizenship involves, but, unfortunately, that Western  
02:53 20 conversation has become internalized in a lot of  
21 communities that we deal with, so the discussion about  
22 citizenship is still about what do I get from the nation  
23 because I am a citizen? What are my rights? What are my  
24 entitlements?

02:54 25 It is like Oren said to me in that same



1 conversation about membership, if you are a member, what  
2 do you get? You get the mag every month and you get a  
3 discount at the store and you got all these things that  
4 go with being a member, you know, if you pay your dues.

02:54

5 And that is it. You pay your dues and it all comes to  
6 you. And that indigenous conception is very different.

7                   There's a friend of mine, a man named  
8 Tipene O'Regan. He is an elder of the Ngai Tahu people  
9 who are the large tribe, Maori tribe on the south island

02:54

10 of New Zealand, and he argues that the ultimate purpose  
11 of tribal activity should be the intergenerational  
12 transmission of tribal identity and heritage.

13                   And by "heritage," he means language,  
14 ceremony, those core values, the land itself, the  
15 interrelationships that constitute a people. The  
16 intergenerational transmission of identity and heritage,  
17 maybe that is what citizenship ideally is about.

02:54

18                   The intergenerational transmission of  
19 identity and heritage, maybe that is the primary  
20 responsibility of being a citizen, is to participate in  
21 that transmission, in the preservation of that heritage  
22 and its communication down the road of generations.

02:55

23                   And if that were the case, then you would  
24 have to think about how do we make citizens? How do you  
25 create citizens who recognize and accept that

02:55

1 responsibility, no matter where they grew up, what their  
2 experience was, what their blood quantum is, any of those  
3 things? Do you accept that responsibility? If so, you  
4 are a citizen of this community.

02:55 5 I think this calls for a -- Joe mentioned  
6 Indian civics. And I remember Frank Ettawageshik, former  
7 chair at the Little Traverse Bay Bands of the Odawa,  
8 talking about tribal civics.

9 You know, what you want is an educational  
02:56 10 program that is designed to create the knowledge and  
11 knowledgeable and responsible tribal citizens of that  
12 kind, and it is an effort really to re-create what was --  
13 is a long standing tradition in native communities of  
14 building citizens in that sense.

02:56 15 And I think there are examples out, the  
16 Akwesasne Mohawk Freedom School has been an example of  
17 that, the Cherokee nation history course that they ran  
18 for years that was required of every employee of the  
19 Cherokee tribe, the Santa Fe Indian school's leadership  
02:56 20 course. There are others. Some of the programs at some  
21 tribal colleges, which to me really are about creating  
22 citizens, making citizens, and they have taken that on as  
23 part of their educational task.

24 And I think that is a challenge these days  
02:56 25 as many indigenous nations begin to think about how do we

1 get control of the education of our children? The next  
2 question is: And what is the content of that education  
3 going to be? And how do we make that the education that  
4 we need for long-term sustainable survival as indigenous  
02:57 5 communities?

6 And I think now it is over to Rebecca --

7 MS. TSOSIE: Thank you so much, and good  
8 morning to everybody. I am just recovering from an  
9 illness, so please forgive my scratchy voice. I want to  
02:57 10 thank my wonderful colleague Robert Hershey for working  
11 so hard on this amazing conference, and to my  
12 co-panelists, like, you guys are -- have been just so  
13 important in my career and my thinking about nation  
14 building, and it is very much an honor to sit here and  
02:57 15 share this time with you.

16 And for Gabe Galanda, who I have known  
17 since he was a student, I am just so incredibly moved by  
18 everything that you are doing in the community with your  
19 leadership in the law and also your words this morning on  
02:58 20 behalf of inclusion, I -- I really thank you for  
21 expressing that.

22 We have an amazing audience here today  
23 with so much expertise, and I want to leave lots of time  
24 for dialogue with you. So my contribution is going to be  
02:58 25 more in the terms of framing some ideas that I think have

1 emerged for me out of just thinking about this very  
2 difficult issue and then hearing the wonderful  
3 presentations all the way up till now -- this morning and  
4 now.

02:58 5                   And the first place I want to start is  
6 with the insight that Professor Hershey shared with me  
7 when you were putting this together, and we were talking  
8 about that intergenerational transmission of knowledge,  
9 cultural knowledge that really goes into your personal  
02:58 10 identity.

11                   And the reason -- one of the reasons why  
12 this issue is so heartbreaking is that you go out to  
13 these schools and you see kids who fall into this  
14 category that we are talking about. And I go there. A  
02:59 15 lot of times they are urban schools, and we are all  
16 positing this perfect world in which you have two parents  
17 that are always there and instructing you appropriately  
18 the way that, Governor, you were talking about how your  
19 grandparents instruct you, but a lot of these kids don't  
02:59 20 have that and they are coming from such a -- far away  
21 from that. They don't know who they are. And if you  
22 don't catch them early enough, they end up in places that  
23 none of us would ever, ever want our kids to be.

24                   And when I've talked to native counselors,  
02:59 25 I've talked to native physicians about what is it that

1 gives young people that hope and that inspiration, and  
2 over and over those people have told me the students who  
3 really have that sense of their culture and their  
4 identity, those are the students that will thrive.

03:00 5                   And I see a lot of those students here in  
6 this law school in the indigenous peoples legal program.  
7 I see law students from all these different communities  
8 come together, and they come together without judging  
9 each other. They come together to learn from each other  
03:00 10 and to offer and to support each other as this family and  
11 to transmit that knowledge into our circle about what is  
12 core for the survival of our people as people, not the  
13 economic version of what membership is.

14                   That is -- that is an economic formula  
03:00 15 about who gets more of what. I am not talking about  
16 that. I am talking about the people, what makes the  
17 people survive. And I wanted to share what I think is  
18 something that we need to think about. So there are two  
19 things happening that I have been carefully involved in  
03:01 20 globally and nationally. One of them is repatriation.

21                   I think that all of the leadership who has  
22 worked on repatriation issues have understood how  
23 important it is to have that cultural knowledge so that  
24 you can actually claim sacred objects and objects of  
03:01 25 cultural patrimony, not to mention ancestral human remain

1 and funerary objects that were wrongfully taken from the  
2 communities and the harm of that wrongful taking endures  
3 today in ways that can only be framed as a spiritual form  
4 of harm and, in fact, the declaration on the rights on  
03:01 5 indigenous peoples has the category of spiritual rights  
6 acknowledging that some of these transgressions happen in  
7 a form that you cannot even address in -- in the material  
8 world. It is in the spiritual world.

9                   The effect of denying the place of your  
03:02 10 ancestors is a harm that needed to be remedied and  
11 domestically we got the Native American Graves Protection  
12 and Repatriation Act to do that. Internationally, we are  
13 still struggling with that as the governor from Laguna  
14 and others who have gone over there to Europe to  
03:02 15 challenge those auctions of sacred items that are  
16 happening right here and now only to be told: That's  
17 art. It is in the private hands of somebody else.

18                   That is a wrong, and it needs the -- the  
19 stewards with the cultural knowledge to actually go in  
03:02 20 there and make those claims. And one of the hardest  
21 categories in all the years I was working on that law and  
22 set of regulations was this category that they called  
23 "culturally unidentifiable human remains." They are  
24 Native American, but they are this thing called  
03:03 25 "culturally unidentifiable."

1                   And we brought together a group of tribal,  
2 cultural and political leaders from all tribes with the  
3 help of NCIA and ITCA, Intertribal Council of Arizona.  
4 And I will never forget that, because the collective  
03:03 5 response of all those different leaders was that that  
6 category is meaningless in the traditional customs of  
7 every single indigenous nation that came to that table.

8                   There is no such thing as culturally  
9 unidentifiable. What it is is culturally unidentified in  
03:03 10 their world, but the spirits still resided in those  
11 ancestors and the harm was still taking place to their  
12 descendents whether or not they were aware of it. And  
13 all you have to do is look and see what is happening out  
14 there and you can see the harm in descendents whether or  
03:04 15 not we know the cause of that.

16                   So that was the argument for having a set  
17 of moral and ethical standards that would allow for the  
18 respectful repatriation. Indigenous nations would  
19 repatriate those ancestors collectively because it was  
03:04 20 the right thing to do.

21                   There is a branch of archeology called  
22 bioarcheology, and right now there are banks of DNA from  
23 ancient native remains that is taken out of the category  
24 of NAGPRA, something that you can test and you can  
03:04 25 establish for a fact who were the first people here. Are

1 those the same people that are now saying they are  
2 federally recognized tribes or were they different  
3 people? And what does it matter for all of those claims  
4 that are made under the guise of sovereignty?

03:05 5 That is the discussion you get into when  
6 you get into a biological account, a racialized account  
7 of identity. What I learned, the most powerful lesson I  
8 learned from repatriation work was that the cultural  
9 definition is still in the knowledge of those tribal  
03:05 10 custodians that care and respect those ancestors and have  
11 made it a point that that will carry on into the future.

12 That is the level of work that we are  
13 talking about here today, and it does not have to  
14 coalesce with the benefits language. Let the economic  
03:05 15 programs go the way that they need to go, and tribal  
16 governments do have hard make decisions to make about the  
17 benefits and entitlements.

18 By the way, the United States has hard  
19 decisions to make too, and it really works for them when  
03:06 20 Indian nations are smaller and when they are very  
21 economically self-sufficient because it takes you off of  
22 the trust responsibility, and then the trust  
23 responsibility can narrow down to the people who really,  
24 really need it. But there is a danger in that, right?

03:06 25 What is the trust responsibility? Is it



1 just a benefits program or is it one nation saying to  
2 other indigenous nations, "We are in a partnership with  
3 you and we acknowledge that you survive and your lands  
4 survive into perpetuity"? That was the language of the  
03:06 5 treaty rights, that it would survive into perpetuity.

6 What if there are no salmon in the river?

7 Do you still have a treaty right to fish? That is the  
8 argument about your future generations. But let's see  
9 what is happening there. Indian Child Welfare Act, the

03:07 10 first line I think of the baby Veronica case, how could a  
11 child of 1/300 and something really be an Indian child?

12 Should we give this child to her Cherokee father or  
13 should we give it to these nice foster parents,

14 nonIndians, but they can provide her what she needs to be  
03:07 15 a real citizen of the United States, which is the primary

16 political identity.

17 There is a lawsuit right now about whether  
18 or not it is a constitutional harm to native children who  
19 are not living on the reservation with their really

03:07 20 Indian families because maybe they deserve to have the

21 best economic situation in a nice foster family that

22 adopts them and sends them to school in Phoenix, Arizona,  
23 to have a flat screen TV and all the comforts they need.

24 How did that citizenship thing work out?

03:08 25 It is not working very well. And that is the politics.

1 That is the politics of race. So we say we are  
2 political. We are not racial. But blood quantum is  
3 racial. So we are political and we are racial, and if we  
4 are not careful, we are going to actually step on our own  
03:08 5 foot in trying to claim this thing called  
6 self-determination.

7 So I just got back from an international  
8 meeting. And this is where I will close. An  
9 international meeting is about who owns traditional  
03:08 10 knowledge of indigenous peoples? Who owns their genetic  
11 resources? Who owns their traditional cultural  
12 expressions?

13 And we had the United States up there  
14 saying, you know what? The United States is a good  
03:09 15 multicultural country. We have all kinds cultural  
16 expressions from all kinds of people, and we love our  
17 native people, but, hey, some of their stuff is our stuff  
18 now.

19 That is the bottom line of the discussion  
03:09 20 paper. I will give you a draft if you want it. But that  
21 -- that question that you framed in the first place,  
22 Professor Hershey, is the right one. How do we know?  
23 What are the standards that we are going to use to claim  
24 that knowledge? Is it going to be their standard or is  
03:09 25 it going to be our standard?

1                   And if it is our standard, there is an  
2 ethics that goes with that, and that is why the  
3 generations have survived to this day.

4                   Thank you.

03:09 5                   MR. HERSHEY: Thank you.

6                   Before I get to questions, I want -- since  
7 you mentioned Oren, and I spoke with Oren a couple days  
8 ago, and he said this notion of tribal sovereignty, when  
9 you put the word "tribal" in front of "sovereignty,"  
03:10 10 you've lost the battle. You talk about Italian  
11 sovereignty. You talk about American sovereignty. But  
12 we hear this always coupled, and so to his point, that  
13 has to be removed.

14                   He has also talked about access to the  
03:10 15 treaties that you have and not enough has been fought for  
16 or promulgated or used in terms of treaty rights. So  
17 that is just a couple things I want to pass on.

18                   Logan, here you go. My law students  
19 thought I was not able enough to go back and forth. So  
03:10 20 you saw how I got out of that chair, didn't you?

21                   SPEAKER: Hi. Thank you very much. I  
22 really appreciate the speakers' thoughts. My name is  
23 Sharon Haensly. I am the lawyer for Squaxin Island tribe  
24 in Washington State, and I advise the enrollment  
03:11 25 committee. I am here with our -- our officer.

1 I -- I have, I guess, a two-part question.  
2 The first part is that we understand the broad ideas you  
3 are presenting on citizenry, but the question we are  
4 hoping to bring back to the community is: Who is doing  
03:11 5 this? Who is in -- in -- through tribal law or practice  
6 using citizenry in lieu of blood quantum? How is it  
7 working? What are the approaches? You know, is it  
8 enforceable?

9 And I guess a related question is: If you  
03:11 10 are going to ask for citizenry contributions of new  
11 members coming in, if you -- if you do away with blood  
12 quantum, what -- how does that balance with the existing  
13 members who people will say, well, they got a free ride  
14 because they -- you know, we are new and we have to do  
03:12 15 all these things, we have to contribute, we have to learn  
16 language, but all the people who are existing members may  
17 not have to do it?

18 So it would be really, really helpful to  
19 hear about some on-the-ground examples of what tribes put  
03:12 20 in place and what is working and what is not working.

21 So thank you.

22 MR. KALT: Well, a couple -- a couple  
23 thoughts. First -- and Norbert Hill said it. There is  
24 no silver bullet. There is no magic bullet here. I  
03:12 25 think everyone would like a solution to these challenges

1 of disenrollment and enrollment and so forth.

2                   And there is not going to be one size that  
3 fits all. There are -- by the nature of the system as it  
4 has come along, there are a vested interest in the status  
03:13 5 quo, and this leads to the kind of conflicts that Gabe  
6 writes about all the time where there is vested interest  
7 in the status quo.

8                   What do we see some tribes doing to  
9 overcome the resistance to addressing this question and  
03:13 10 getting on with the challenge of avoiding this de facto  
11 termination because the kids have cars?

12                   Well, first, in this -- this group, you  
13 don't have to say this. It has to be a do-it-yourself.  
14 It is an ultimate act of sovereignty to determine who the  
03:13 15 -- who the "we" is in self-government, who the "self" is  
16 in self-government. It is an ultimate act of  
17 sovereignty.

18                   A lot of this goes to education. Pat  
19 Riggs' case from Ysleta Del Sur pueblo, she is  
03:13 20 underselling it a little bit. Go to the website if you  
21 want to see how somebody actually did it, but it actually  
22 started almost exactly 10 years ago in 2007, because what  
23 the community started to do with leaders like Pat and  
24 others, what they did was start a process of education on  
03:14 25 this issue of tribal civics or Indian civics that we've

1 touched on.

2 So while before the issue of citizenship,  
3 enrollment and so forth came up, the tribe was investing  
4 a lot in educating the people. And what I mean by  
03:14 5 "investing," it was things like distance-learning classes  
6 on nation building where elders and teenagers and tribal  
7 employees were working on and trying to understand what  
8 is our system of governance, what is -- what are our  
9 values, what are our core values, who is this us.

03:14 10 And there is this process -- and again, it  
11 is well-documented if you want a great case study. It is  
12 not the only case out there, but it is well-documented.  
13 You go right to the website, Ysleta Del Sur pueblo, they  
14 spent a decade or eight years or seven years before they  
03:14 15 ever got to the citizenship question really trying to do  
16 this -- make this challenge of trying to convince their  
17 -- their -- the members of the community that they were  
18 members of a self-determining group that didn't have to  
19 look to the outside, that they would make their own  
03:15 20 decisions, but that they as individuals had  
21 responsibility to participate in that process.

22 And so it shows up with very high rates of  
23 survey response, okay, because there had been, like, a  
24 decade of investment of getting people to start thinking  
03:15 25 themselves of your tribal government isn't just about

1 getting a benefit from them, it is about you've got a  
2 responsibility, and so it shows up a decade later with a  
3 process of education.

4           The other thing we see -- a couple of  
03:15 5 other things we see tribes doing is I will call it  
6 constitutionalizing or ceremonializing this whole  
7 decision. As tribes confront these challenges, it is  
8 important that they be stable policies, because otherwise  
9 it keeps the infighting going back and forth and back and  
03:16 10 forth and nothing ever gets settled down.

11           And I often point out that whether a tribe  
12 has a written constitution or an unwritten constitution,  
13 a constitution is actually just a ceremony, just a piece  
14 of paper if it is written. If it is the indigenous  
03:16 15 traditional ways, it is the indigenous traditional ways,  
16 but it is ceremonial in the sense that -- I tell my  
17 students to think of the U.S. Constitution, all this  
18 puffy language I call it. We, the people, in order to  
19 perform blah, blah, blah, blah, blah, and then we write  
03:16 20 it down in bold scroll lettering and everything else and  
21 put it in a box at the National Archives.

22           Well, it is actually just a ceremony  
23 because what you are trying to say is at this moment, at  
24 least, this is who we are and what we are trying to be,  
03:16 25 and this is important around these issues of membership

1 and citizenship, that it be seen by the community as  
2 something worthy of ceremony, that we are going to make  
3 some decisions.

4                   It may be worthy of putting in your  
03:16 5 written or your unwritten constitution, partly to -- the  
6 next step -- get it out of the politics where we have  
7 seen best and worst practices, where we've seen tribal  
8 councils really sincerely trying to solve this challenge.

9                   I cannot find any case where it works,  
03:17 10 where it is the tribal elected officials who are the ones  
11 who are trying to make the decisions on whether we are  
12 going from one-quarter to one-eighth or go to lineal  
13 descent or whatever it might be. It doesn't work. And  
14 it goes back to these themes about identity that Rebecca  
03:17 15 has spoken about and Steve has spoken about.

16                   This has to really ultimately come out of  
17 -- and this is what you will see in the Teague case -- it  
18 comes out of the people saying to the politicians, if you  
19 will, "This is who we are, folks. My relatives who are  
03:17 20 not enrolled, they are still us," and so, hey, this is  
21 not a remark against the politicians, but the politicians  
22 have the pressure of the status quo on them because they  
23 were put there by the status quo, if you will, by the  
24 citizenship and related rules that put them in office.

03:18 25                   And so what we are seeing is these



1 processes of community engagement, but it is different  
2 for each tribe. It is not necessarily one big public  
3 meeting. For example, we work with one tribe in  
4 Minnesota where the chairwoman of the tribe was working  
03:18 5 on this issue for a long time, and she would hold public  
6 meetings, she would offer food and she would still get  
7 only get, like, eight people to come.

8 Well, it turns out within that culture --  
9 they were set of -- I think it was nine families. She  
03:18 10 finally went to the elderly aunts of each family and  
11 said: Could you hold a family meeting? And I am the  
12 chairwoman of the tribe. I will come talk at it about  
13 why do we need to address this issue of blood quantum or  
14 we are going to go away because the kids have cars.

03:18 15 And the second the families started  
16 holding the meetings, everybody showed up. It was  
17 standing room only. It was standing room only. So --  
18 and in each culture, there are going to be different  
19 ways. Maybe it is a survey. Maybe it is family  
03:18 20 meetings. Maybe it is a big grand public meeting, a  
21 general council meeting, but -- but it has to involve and  
22 engage the public in a way.

23 And if we watch what happens in cases like  
24 Teague -- what Teague did was so cool in certain ways.  
03:19 25 They built a constituency outside of the formal officials

1 in the tribe. Because when you go out and survey the  
2 people and say, "What do you want?", you are making an  
3 implicit promise to them you are going to try to do your  
4 best to satisfy them.

03:19 5 But that means you've got a group of  
6 citizens now who carry an interest in the challenge, not  
7 just the immediate family, because he is trying to get  
8 his, you know, 1/16th blood relative in the tribe who is  
9 pushing, but now you have the community involved.

03:19 10 And then lastly, how do you get the  
11 politicians out of it? I am not talking antipolitician.  
12 It takes leadership. It takes elected and nonelected  
13 officials saying, "I know I am tribal chair. I know I am  
14 tribal chair, but we need to give this to a separate  
03:19 15 group," maybe the elders, maybe youth and elders, whoever  
16 it might be, but it takes leadership to be educating and  
17 to be making these decisions of essentially saying this  
18 is where we will take up a chance and give up our own  
19 power and try to empower the community in a real way, not  
03:20 20 in a blabby way where you are just, you know, holding  
21 meetings and talking, but you are actually reaching into  
22 the power, whether it is families, the elders, the youth,  
23 whatever it is, you are reaching into the community to  
24 give it power.

03:20 25 MR. HERSHEY: But I also heard you ask

1 what about the unwillingness of people and the internal  
2 prejudices within each community or that particular  
3 community, and I think that Norbert Hill and Joe, Steve  
4 and Rebecca talked about ways of dealing with that, and I  
03:20 5 think Rob Williams this afternoon, that kind of history  
6 about how native people have become racialized and then  
7 turn that -- that racialization on their own people and  
8 how do you deconstruct that, if I may use a word that I  
9 hate, "deconstruct," but I think we will get to some of  
03:21 10 that a little bit this afternoon as well.

11 I think there was somebody here that --  
12 SPEAKER: Morning. So one of the biggest  
13 questions, I kind of always have a big -- is the thought  
14 of membership within a tribe has always been historically  
03:21 15 fluid as far as, you know, including -- whether you  
16 always had either a clan -- clan kinship within the  
17 Navajo nation or -- but even like -- let's use, for  
18 example, my first clan is Ma' iideeshgiizhinii, and it is  
19 coyote pass people. Instead, we did not have a car, but  
03:21 20 we had a coyote. We had a coyote canyon, and that was  
21 connected to Jemez pueblo people, so not necessarily  
22 Navajo but, you know, historically including a clanship  
23 with them and they became Navajo too and eventually as  
24 collectively we had this wide system of clans.

03:22 25 And I guess the one thing about it too as

1 well when you quantity a blood quantum and everything  
2 else, I mean, I can understand that being a legacy of  
3 colonialism, but how do you qualify an individual,  
4 especially when they don't have the access to live on the  
03:22 5 reservation and embed any of those values that -- that do  
6 hold them, but also you are kind of cutting off any  
7 intention that an individual would have in the future and  
8 then thus creating a social equity issue?

9                   And then also isn't that kind of doing  
03:22 10 colonialism to ourselves? How do you kind of stop that?

11                   MR. CORNELL: I think one of the things  
12 that we've got to be aware of is one of the aspects of  
13 colonialism is it likes bright lines. It wants to know  
14 where the boundaries are because that gives it  
03:23 15 legibility. It can administer you whether it knows  
16 whether you are in or not.

17                   Are you a member or not? Some of those  
18 things you are talking about. And, of course, what has  
19 happened to tribes is the bright lines have disappeared,  
03:23 20 so that you've got citizens in Los Angeles or members  
21 whatever you call them in Los Angeles as well as on the  
22 res, and I think -- and this actually goes back to the  
23 earlier question too.

24                   I think we got to be careful about  
03:23 25 creating check boxes or creating your own version of a

1 bright line that then leads to the kinds of social  
2 equality issues that you are talking about.

3                   And I am thinking of a tribe like the  
4 Citizen Potawatomi Nation which has made a major effort  
03:23 5 to reach out to all the people who had to leave or who it  
6 left behind because it was forced out of its own  
7 homelands in the Northern Midwest in areas like Wisconsin  
8 and Michigan and ended up having to move three times and  
9 ends up in Shawnee, Oklahoma.

03:24 10                   And as one of the leaders of the tribe  
11 said, you know, "They -- they not only took our land, but  
12 in the course of those three moves, we lost language, we  
13 lost knowledge of our culture, we lost all these pieces  
14 of who we are, and now we are going to reclaim who we  
03:24 15 are, and one way we are going to do that is we are going  
16 to reach out to Citizen Potawatomis, no matter where they  
17 are in the United States."

18                   And my -- what we've heard is that as they  
19 have reached out -- and they do it by allowing people to  
03:24 20 vote in their elections who live in Los Angeles, although  
21 their tribal headquarters are in Shawnee, they run their  
22 tribal council meetings by video conferencing so that you  
23 can have an elected tribal council member who is sitting  
24 in LA voting and engaging in dialogue because they are on  
03:24 25 a video screen in the council chambers in Shawnee,

1 Oklahoma.

2 Well, one thing they are discovering is  
3 there are a lot of more Potawatomis than they thought.

4 And one argument would say, sure, because there are

03:25 5 benefits to being Potawatomi, but what surprised them was  
6 no, they are people who want to know more about who they  
7 are, and so that bright line is not so bright anymore.

8 It keeps expanding. It is a moving notion of who is and  
9 who is not Potawatomi, and it resists what colonialism

03:25 10 wants, which is, okay, are you or aren't you? Yes or no?

11 Well, yesterday we were 27,000 people, but

12 tomorrow we are actually 27,500, because guess what

13 happened? A whole lot of people showed up and said: I

14 am Potawatomi. My grandparents taught me that, but I

03:25 15 have never been home to Shawnee. I've never known what

16 it means to be Potawatomi. Now, I want to know. I want

17 to participate.

18 That is not hitting a lot of check boxes,

19 but it seems to me that is the sort of person you want,

03:25 20 is that person who says, "I may live in L.A., but I am

21 part of the people and I am trying to learn what that

22 means," and the tribe is now making an effort to say: If

23 you want to learn what it means to be Potawatomi, we can

24 set up a program where you can come home, you can

03:26 25 participate, you don't have to move to Shawnee. We will

1 help you learn where you are. We will give you every  
2 opportunity to learn what being Potawatomi means.

3 And I don't -- I think a lot of these  
4 things, we are not going to work this stuff out quickly.  
03:26 5 This is untried territory for a lot of nations. You let  
6 go of blood quantum and then, well, where are you? What  
7 are the check boxes? What are the criteria? How am I  
8 going to be able to get that bright line back?

9 Well, maybe you don't -- we shouldn't be  
03:26 10 thinking about bright lines. Maybe it is really fuzzy  
11 stuff, but the community knows this person wants to  
12 contribute. There is a link there. They want to be part  
13 of us. We view them as having that link. Let's find out  
14 a way to make them part of us again.

03:26 15 I am not sure if that answers your  
16 question, but I think that this bright line is a colonial  
17 desire and convenience, and we have to be careful that we  
18 don't simply drop their bright line and then pick another  
19 one and end up excluding people who really want to be and  
03:27 20 should be part of the nation.

21 SPEAKER: Hi. My name is Michelle Cook.  
22 I'm an SJD student, and I am also a member of the Navajo  
23 Nation. And I guess what I would offer to you is that  
24 the nation stay as a concept itself is very problematic.  
03:27 25 At least on Navajo Nation, we know that the creation of

1 the Navajo Nation was done so to facilitate oil and gas  
2 exploration and the dispossession of land from our  
3 people.

4                   And so how do we talk about belonging in  
03:27 5 citizenship when the nation and the creation of that  
6 institution itself was done for reasons to oppress and  
7 commit acts of genocide against our people? So, one, I  
8 think, you know, what is the nation state? Is that a  
9 concept that we even want to be part of considering what  
03:28 10 it has done in the past? Black Mesa, you know, in  
11 particular.

12                   And we are still suffering from oil and  
13 gas extraction, often that is -- that is facilitated by  
14 the tribal nation state itself as a corporate arm, if you  
03:28 15 will, of the United States government to reach into our  
16 lands and territories through this idea of almost a false  
17 idea of self-determination, a snake oil that we are sold  
18 as Indian people to say, oh, this is sovereignty.

19                   But when we really see sovereignty and  
03:28 20 self-determination enacted, when Indian people exercise  
21 our human rights to self-determination, we see the  
22 response and we saw it in Standing Rock when we were not  
23 treated as citizens of our tribal nations or as citizens  
24 of the United States government, but when we were treated  
03:28 25 as prisoners of war, and that is the truth.



1                   That -- that -- how do we -- how do we --  
2 do we want to be part of a citizen of this nation or a  
3 tribal nation where that is the response and repression  
4 that we get as Indian people when we exercise our right  
03:29 5 to self-determination and our identity to land, right?

6                   Those are really questions that we have to  
7 ask. And then, you know, when you look at what is  
8 belonging, in the Navajo concept, as far as I am aware,  
9 you know, that is a ceremonial belonging. It is not a  
03:29 10 nation state concept. It is a ceremonial way of life, an  
11 Indian way of life, where we are five-fingered people  
12 (native language).

13                   That is who we belong to, right? That is  
14 the indigenous way of life. And I think whatever  
03:29 15 conversations we are having about citizenship and  
16 belonging should really go above the nation state to a  
17 global belonging, a global responsibility to Mother  
18 Earth, because the problem of the nation state whole  
19 system is why we have war and why we cannot have peace  
03:30 20 between our people.

21                   And I am very worried about native nations  
22 adopting that same system that has brought our whole  
23 geopolitical world to a very, very dangerous place, a  
24 cataclysmic space, because we cannot -- how are we going  
03:30 25 to become one and become citizens of this world when we

1 are constantly negotiating these different types of  
2 nation states and boundaries that we are self-imposing on  
3 ourselves, right?

4                   And so, again, I think, you know, look  
03:30 5 back to our ceremonial way of life and how we defined our  
6 belonging in this universe, and it was not a nation  
7 state. It was your ancestral connection to a spiritual  
8 way of life, and I hope that as we go forward as Indian  
9 people that we don't forget that that is the basis of who  
03:31 10 we are and how we belong, because I think that the nation  
11 state idea is very problematic and can lead us to many,  
12 many dangerous places if we don't critically question  
13 where we are going and why we are going that way and what  
14 we are leaving behind in terms of our way of life and the  
03:31 15 paradigm that is very unique at this point in -- in --  
16 for humanity.

17                   You know, we may be one of the only  
18 peoples in the planet who can offer this different type  
19 of paradigm of belonging, and I think the world really  
03:31 20 needs that, you know.

21                   MS. TSOSIE: I just want to respond,  
22 Michelle, thank you so much for putting that in the mix,  
23 and I want to just point to a couple of things that I  
24 think are going to carry us through for the next couple  
03:32 25 of days based on what you said.

1                   That idea of self-determination is  
2   incredibly powerful. The idea of indigenous  
3   self-determination is unique because only indigenous  
4   peoples are theorized as being part of their traditional  
03:32 5   land. So the idea that there is a citizenship that  
6   emerges from that relationship of the people to the land  
7   is one of the most powerful moral principles behind the  
8   argument for indigenous self-determination.

9                   And it is really important to realize that  
03:32 10   that political right under international human rights law  
11   is something that is inherent because of the moral value  
12   to the people, but indigenous people are unique because  
13   of the relationship to the land.

14                  But, Michelle, I am going to challenge  
03:32 15   you. That concept of a land-based citizenship,  
16   responsibility to the land, that is part of the clans  
17   that are attached to the land, and that is an incredible  
18   responsibility to carry. It also doesn't observe orders.

19                  The Navajo nation doesn't -- is not  
03:33 20   bisected by the State of Arizona, Utah. It -- it is the  
21   territory of the Dene people, and the same thing, our  
22   relative from Mohawk, Ms. Skidier (phonetic), you talked  
23   about the way that the Jay Treaty was used to put the  
24   U.S. norm of 50 percent onto the Mohawk people who don't  
03:33 25   -- they are the citizens of that land. They don't see

1 that international boundary.

2 That type of thinking, if we really held  
3 to the power of that, that is the anecdote to  
4 colonialism, because then you get out of that box, but it  
03:34 5 is so dangerous right now to actually challenge the  
6 border. And I am talking about that figuratively,  
7 symbolically and all that that implies.

8 But you have nailed it. That is the  
9 challenge, but it is also an incredible power if we can  
03:34 10 get there.

11 Thank you.

12 SPEAKER: (Native language)

13 My name is Gavin Clarkson. I'm enrolled  
14 in the Choctaw Nation of Oklahoma. I am also a finance  
03:34 15 professor at New Mexico State, so -- I'm sorry. There  
16 was a little bit of a wreck on I-10 as I was driving in,  
17 so I am sorry I missed the earlier presentation. I also  
18 want to say how honored I am to be in the presence of my  
19 two primary mentors, the -- the people that are most  
03:34 20 responsible for getting me into this space, which is Rob  
21 Williams and Joe Kalt.

22 I'm -- I am enrolled in the Choctaw Nation  
23 and yet dominant society looks at me and says, "Gee,  
24 Gavin, you don't look like an Indian." I get it. You  
03:35 25 know, I am pigmentationally challenged. You know, it may

1 be the hat. It might be the gray hair. Who knows?

2 But, you know, I -- if you add up all my  
3 blood quantum components from both -- both my parents  
4 were tribal members. I am, like, 5/32nds. And I've lost  
03:35 5 85 pounds so I am wondering if that will reduce my blood  
6 quantum, but anyway, the dominant society has this view  
7 of what Indians are supposed to look like and what they  
8 are not.

9 I mean, all my sisters have got Rebecca's  
03:35 10 long, thick, beautiful, black native hair, and my little  
11 brother is kind of dark, and I inherited lactose  
12 intolerance, which is -- of all the indian traits to get,  
13 trust me, it is the wrong one.

14 But my tribe has a lineal descendency  
03:35 15 model. We are the third largest tribe in the country.  
16 We have almost -- we have more than a couple hundred  
17 thousand members. And, you know, Indians in Oklahoma, we  
18 are used to that.

19 It is kind of funny. When I was doing --  
03:36 20 when I was doing my law school at Harvard, one of the  
21 first Indians from another tribe that I met was my good  
22 friend Toby Vanderhoop over there.

23 And growing up in Oklahoma -- or growing  
24 up with tribal connections in Oklahoma, you just figured  
03:36 25 everybody used a second person plural pronoun, "How are

1 you all doing? Howdy. How ya all doing?" And then Toby  
2 tells me, "I got to go park the car." And I didn't  
3 realize that there was a diversity with the Indian  
4 country that we don't necessarily all get ourselves, but  
03:36 5 dominant society has a fundamentally racialized view, you  
6 know, and -- you know, how do you combat that?

7 I mean, you talk about having more of an  
8 inclusionary view, but -- you know, in some sense, you  
9 know, that works for us. In Choctaw, we run the gamut.  
03:36 10 You know, we have some really light ones that look  
11 Scandinavian. We've got some dark ones that look Central  
12 African, Nubian Black and everything in between.

13 But, you know, we all have a lineal  
14 descendency back to somebody who we've identified on the  
03:36 15 rolls somewhere between 1902 and 1910, so we all have  
16 that ancestor of somebody somewhere -- my father with a  
17 orphan Indian kid in Chickasha, Oklahoma, who was so poor  
18 that he was digging through other Indians' garbage cans  
19 for food during the Depression and the Dust Bowl.

03:37 20 He joined the Navy in World War II by  
21 forging a birth certificate at age 16 and never looked  
22 back. You know, eventually became the first American  
23 Indian to fly a jet. Eventually became the senior  
24 nuclear targeting strategist for NATO. You know, he was  
03:37 25 the only Indian with nuclear codes. But yet, you know,

1 none of that matters if I -- you know, if I don't go to a  
2 tanning booth and get a hair piece in terms of the  
3 dominant society's perception of Indianness.

4                   So how is it that we recognize -- in some  
03:37 5 sense, you know, we all exist -- you know, tribal  
6 sovereignty exists at the sufferance of Congress. At any  
7 moment, you know, they can do whatever they want. How do  
8 we maintain that those -- you know, we get to decide who  
9 is in and who is out, but at the same point we always  
03:37 10 have this spectrum of dominant society saying, well, gee,  
11 that don't look very Indian to me. You know, how do we  
12 navigate that?

13                   And the example from the five tribes is  
14 the freedmen. You know, we have the notion of tribal  
03:38 15 members who were African slaves owned by tribal members,  
16 and then in 1866 they were given their freedom, and they  
17 were given a choice, either live with the tribe as a  
18 tribal citizen -- Choctaw, Cherokee, Chickasaw, Creek,  
19 and Seminole -- or leave the tribal nations and go back  
03:38 20 to dominant society as an antebellum --

21                   Sorry. Moving too fast. My students say  
22 the same thing.

23                   -- but, you know, leaving an antebellum  
24 person of color. And there was some freedmen that  
03:38 25 decided to stay with the tribe and now the Cherokee

1 Nation is going through its own machinations about what  
2 to do with freedmen decedents.

3           The Seminole nation went through the  
4 entire opposite where they actually created bands of  
03:38 5 freedmen, so even within the five tribes you have  
6 different notions of how they are handling that, but once  
7 again, it is always under the spectra of dominant society  
8 saying, gee, they don't look like Indians to me.

9           And, you know, that is in some sense this  
03:38 10 racialized blood quantum challenge of, you know, what --  
11 is 5/32nds enough? For my tribe, as long as I have an  
12 ancestor member who is on the rolls, that is enough. But  
13 for other tribes, that is not enough.

14           And, Gabe, you know, hats off to you for  
03:39 15 all the good work you do trying to get people to think  
16 about it differently, because -- Suzan Harjo years ago  
17 wrote a really, really good article that I recommend to  
18 everybody called the Vampire Laws, which basically talks  
19 about the notion of blood quantum laws fundamentally  
03:39 20 sucking out the heart of Indian country and stealing our  
21 youth.

22           And it's a -- it's really a good way to  
23 look at it from someone who doesn't need to defend her  
24 Indianness in any way, but she is saying that, you know,  
03:39 25 at this notion of having a racialized blood quantum



1 definition of Indianness is just bad.

2 Thank you.

3 MR. HERSHEY: Thank you.

4 SPEAKER: (Native language)

03:40 5 How are all of you today? My name is  
6 Robert Garry (phonetic), and I am from California. I'm  
7 -- as of couple weeks ago, I was disenrolled. We went to  
8 federal court and then now our tribal leadership says I  
9 was not disenrolled, I was disenfranchised, even though  
03:40 10 we showed them the letter of disenrollment.

11 I guess one of the questions -- because I  
12 sit on the other sides of the spectrum that we are  
13 talking about. I live on the reservation. I was born,  
14 raised on the reservation. The tribal leadership that  
03:40 15 this was enacted on by me from -- actually our mothers  
16 are sisters. We have the same blood quantum.

17 So blood quantum is not an issue here. It  
18 is policy. I looked through -- even through the  
19 Constitution of America, the United States Constitution,  
03:40 20 I don't have that because of sovereignty. I don't have  
21 civil rights because I am from a different nation.

22 But then the Civil Rights Act -- the  
23 Indian Civil Rights Act of 1968, I also don't have it  
24 there because of the Martinez Act -- the Martinez case.  
03:41 25 So I -- I don't have any Civil Rights Act as far as a

1 human being from -- anymore than -- or less than anybody  
2 else in -- in this nation.

3           And I guess -- so where I am coming from  
4 from the reservation I am from, there was about 18, 20  
03:41 5 Pomo tribes. I'm -- where I come from, there is about  
6 100 tribal members that live on the reservation. Well,  
7 every tribal member that lives on the reservation is  
8 being disenrolled for the fact that they don't agree with  
9 the tribal government of saying, okay, we want to get rid  
03:41 10 of this land and we want to relocate somewhere else.

11           Well, we were -- the traditional and  
12 cultural and core values that we talk about are everybody  
13 that is still there because we were being taught by the  
14 elders who are buried there, the ceremony houses that are  
03:41 15 there, and it is a hard and a sad thing to say that I am  
16 one of two speakers left of the southeastern Pomo  
17 language. So the southeastern Pomo language is the  
18 oldest Pomo language from the Lake Pomo to the Valley  
19 Pomo to the Coastal Pomo.

03:42 20           We still do the ceremonies and everything  
21 that we have. But those leaders that are in those  
22 positions don't practice, don't come to the reservation,  
23 don't participate in anything. We all have been  
24 basically disenfranchised so we cannot walk into a  
03:42 25 meeting and vote. We cannot raise our hands to be --

1 have anything being put on the agenda.

2 So coming from that point of view, where  
3 do we go? What happens? Like I said, it is not because  
4 of lineage. It is not because of blood. I have that.

03:42 5 But it is because the way that I see and the things that  
6 were taught to me by my elders that are still buried  
7 there, the round houses that are still there.

8 You know, I am glad to see a big turnout  
9 for something like this because I could see that there is  
03:43 10 tribal leadership that wants better for their people, but  
11 where -- what is next, I guess, for us when those core  
12 values, those traditional values, those religious values  
13 are the things that are supposed to keep us there and  
14 give us those rights are not given to the people?

03:43 15 And, I guess, you know, those are the  
16 questions I have, because being the last speaker that is  
17 on the reservation. I normally don't get into politics  
18 and being part of that. You know, my bringing up was,  
19 okay, language, in the round house, doing the ceremony  
03:43 20 things, but now it has gotten to a point where if I don't  
21 stand up for what I believe in and the things I was  
22 taught and the values that I was taught by my elders,  
23 then it will be gone along with the land, along with the  
24 language, along with the ceremonies.

03:43 25 And so, you know, that is why I am here

1 today to see and to find out, you know, where is it that  
2 I go? Because I am on the other side. And like I said,  
3 it doesn't have anything to do with -- with blood  
4 quantum. It doesn't have anything to do with other than  
03:44 5 just not agreeing with your tribal government.

6 And to me, I look at our constitution that  
7 we have for the tribe. If we followed that, I would be  
8 okay. You know, that is really what it comes down to, is  
9 if those things were set into place and put into place to  
03:44 10 protect us, I would be okay. The Indian Civil Rights  
11 Act, if it was there and it really did what it was  
12 supposed to do, I would be okay.

13 If the U.S. Constitution abided by what it  
14 said, I would be okay, but I can't get the Department of  
03:44 15 Interior to act on. I can't get basically a lot of the  
16 judges in the federal court systems to act on it, because  
17 we are -- we are a sovereign nation. So I am caught in  
18 the middle. And these are things, like I said, I hear it  
19 comes down to what we inherited through our ceremonies  
03:44 20 and our language and -- and our laws and our leadership.

21 But when you do not have that, then what?  
22 Then where is it that we go? And so that's why I am here  
23 today to find out through, you know, everyone that is  
24 here, whether you are a professor from here, whether you  
03:45 25 are a lawyer, whether you are a tribal member, whether

1 you are a tribal leader, you know, these are things that  
2 I've been given the job to be able to come back to those  
3 over 100 tribal members in my community, 100 percent of  
4 my tribe that lives on the reservation being -- being  
03:45 5 kicked off due to just wanting to be put into better  
6 relocated -- or relocated into a better area for, you  
7 know, more money for -- from a casino.

8                   You know, the core value that we talk  
9 about, you know, it is being -- our elders that are  
03:45 10 passed that are there, they are being forgot about,  
11 because everything that we have -- even -- like to me I  
12 think it is -- it is easy to understand if you just  
13 understand the language.

14                   I know in my language when I say (native  
03:46 15 language) it is telling you that the land I live because  
16 I was born there, I was raised there, I prayed there,  
17 that that place owns it and that no one has the right to  
18 take me away.

19                   And everybody that is there believes and  
03:46 20 says the same thing. So being caught in the middle, like  
21 I said, not being represented from the Civil -- Indian  
22 Civil Rights Act or the United States Constitution, you  
23 know, what is it next that -- that lies for me and my  
24 children because it is not blood quantum and lineage?  
03:46 25 So, you know, what can I do, I guess?

1 MR. HERSHEY: Thank you very much. I  
2 think tomorrow --

3 (Applause.)

4 MR. HERSHEY: Thank you very much. And I  
03:46 5 know that tomorrow that Gabe will be talking about some  
6 of the strategies to deal with this. Did you want to say  
7 something now?

8 Logan? Can you give the mic to Gabe?

9 MR. GALANDA: So thank you all for your  
03:47 10 remarks. I appreciated a few words that each of you were  
11 very careful to offer. Steve alluded to kinship, maybe  
12 in juxtaposition with citizenship or membership, and,  
13 Joe, you were careful to suggest that every society has  
14 always had a form of governance but not necessarily  
03:47 15 suggesting it was government.

16 And, Professor Tsosie, you were talking  
17 about cultural identity as opposed to other forms of  
18 racialized identity metrics. And I typically tell people  
19 in my advocacy: Disenrollment is not indigenous. It is  
03:47 20 not our way. It was forced upon us as a part of  
21 reorganization.

22 And some people say: Well, neither was  
23 membership, and neither was citizenship for that matter.

24 Citizenship was borne by John Marshall or  
03:47 25 perhaps others. But in the moment we are in in history

1 where it is predominantly about the nation-to-nation  
2 relationship and the government-to-government  
3 relationship and the trust relationship and the treaty  
4 relationship, which is all founded upon native nationhood  
03:48 5 or government, and then with that comes citizenship as  
6 you correctly suggest being superior to membership, to  
7 what extent is citizenship a square peg round hole as  
8 membership?

9                   And if it is kinship and relation,  
03:48 10 historically what do we do moving forward in the nation  
11 to nation or government to government relationship? You  
12 know, what is your reaction to perhaps the concern that  
13 citizenship is not going to fit or sustain us either?

14                   MR. CORNELL: Yeah. But isn't this what  
03:48 15 Deron Marquez really means when he says that we have the  
16 ability to rethink what that -- citizenship, as he puts  
17 it. I don't know what the terminology should be, and one  
18 would probably avoid certain kinds of terms given their  
19 -- their origins perhaps.

03:49 20                   But as you say, Gabe, the -- the current  
21 situation is one where we got to have some sense of how  
22 we describe the "us," not -- not me, I am not an  
23 indigenous person, but there has got to be some sense of  
24 how to describe the "us" and what that entails, what is  
03:49 25 that set of responsibilities, and how you talk about that

1 maybe has to yet be invented.

2                   You know, I think in some ways we are  
3 stuck with the available language because we have not yet  
4 done the hard work of figuring out is there a better  
03:49 5 language that would capture the notion of the  
6 relationship that we are trying to create or re-create  
7 really, because I think most indigenous nations know what  
8 that relationship once looked like and felt like, and  
9 that is what was taken away.

03:49 10                   And now the task is to restore it or to  
11 restore a version of it that is contemporary and adequate  
12 to the challenges you face today. And maybe we simply  
13 don't yet have a language that adequately captures that,  
14 and that is part of the task, and it may not be a single  
03:50 15 language.

16                   I mean, just as the diversity that Norbert  
17 and Joe and others have talked about, maybe that  
18 diversity is going to mean that we just have to realize  
19 that when your nation talks about what you call this  
03:50 20 relationship, we know what you mean. We talk about it  
21 differently, but when you get down to what it involves,  
22 it is the same thing.

23                   You know, I -- we recently had some  
24 indigenous Australians who visited Rich Luarkie at Laguna  
03:50 25 pueblo, and when Rich and others talked about the core



1 values of Laguna pueblo, those indigenous Australians  
2 knew that some of their values might be different, but  
3 they knew exactly what they were talking about, because  
4 they too felt that what their ultimate struggle is, how  
03:50 5 do we maintain and sustain those values over time.

6 So they heard about it in the language  
7 that Governor Luarkie and his colleagues articulated that  
8 day at Laguna, but they made the translation because they  
9 knew what he meant, and maybe that is where we are headed  
03:51 10 in the -- the terminology around this. I don't know.

11 MR. KALT: I -- I don't know about the  
12 square peg round hole in the (inaudible) sense. I keep  
13 looking at the practical challenges out there. Rebecca  
14 mentioned a quote, for example. There are decisions at  
03:51 15 this point in history that tribal communities have to  
16 make that largely are conditioned by the history of  
17 colonialism, but they are very concrete decisions.

18 When that other group comes in and says we  
19 are going to tax every dollar spent in a tribal  
03:51 20 enterprise or tribal casino or a tribal store, or  
21 anything like that, somebody is going to hopefully stand  
22 up and say: No, you are not.

23 And so who that is -- and it falls to  
24 tribal government right now, and I appreciate the remarks  
03:52 25 about the nation state, but it is a reality at this point

1 in history. That is a tool.

2                   What you want it to do is not condition  
3 the mind, right, but it is a tool that you are going to  
4 say, okay, we are going to hire Gabe Galanda. We are  
03:52 5 going to spend this money that we could spend on this  
6 school over here. We are going to spend it on Gabe to  
7 have Gabe go fight for the child's rights that you raised  
8 Rebecca. There is going to be a "they" there that makes  
9 those decisions, and it falls to tribal government right  
03:52 10 now.

11                   The challenge is is to rethink not just  
12 tribal citizenship but tribal government because  
13 that's -- in some sense tribes are still -- everything --  
14 everything from the personnel grievance policy to the  
03:52 15 annual budget cycle. Why annual?

16                   Tohono O'odham here does a cool thing.  
17 They run this world class elder care facility. And they  
18 said we don't have to run it on annual budgets. We will  
19 never be able to hire a doctor on an annual budget. We  
03:53 20 are going do it on a five-year budget, so -- they are  
21 very practical decisions where so much has been  
22 conditioned on this legacy of the federal presence from  
23 the personnel grievance systems to the accounting systems  
24 to the very notions of tribal councils that people have  
03:53 25 to operate under and do operate under.

1                   So I think it is deeper than just  
2 rethinking citizenship. I think it runs to this notion  
3 of governance, okay, and I don't care all that much about  
4 the word at the moment, but somebody -- somebody will  
03:53 5 collectively have to make these decisions.

6                   Are we going to spend this money here or  
7 there? Are we going to hire Gabe or not? Are we going  
8 to fight this legal battle or not? And there has got to  
9 be a collective that does that. I don't want a dictator  
03:53 10 to do it. I've got one in Washington, D.C., trying to do  
11 that, okay? I don't want that.

12                   There is going to be the collective, and  
13 that challenge of coming up with collective  
14 self-governance, it seems to be even a deeper challenge  
03:54 15 than this challenge of rethinking the word citizenship or  
16 member. It is how are we going to run ourselves so that  
17 we -- we know who we are. How are we going to make  
18 decisions?

19                   Because we are -- in this day and age,  
03:54 20 that is what we have to do. We have to decide do we  
21 spend the money on a school or hiring a lawyer? Whatever  
22 those concrete decisions are, there is going to be a  
23 collective entity that does that, and the challenge is to  
24 rethink what form is that collective entity going to  
03:54 25 take. It goes -- it goes to the fundamental of

1 governance, not just citizenship.

2 MR. HERSHEY: Tomorrow, E.J. Crandall and  
3 Jaime Boggs, two people from the Robinson Rancheria will  
4 be here as part of the tribal leaders forum and they will  
5 be telling you what they have been doing recently.

03:54

6 It is time for lunch there.

7 (Lunch break ensued at 12:18 p.m.)

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25