



PODCAST TRANSCRIPT

S2E2: INDIGENOUS PEACEMAKING INITIATIVE WITH BRETT LEE SHELTON

Brett Shelton: The worldview in a lot of, or most Indigenous cultures that I've encountered anyway, is 180 degrees different. Instead of the R word Rights, there's some R words that are a lot more important. One is Relationships. Those are critical. Another is Respect. Another is Responsibility. And another is Reciprocity. Those R's kind of govern how one ought to act in an Indigenous worldview.

Sam Fuqua: That's Brett Shelton, and this is, Well, That Went Sideways! A podcast that serves as a resource to help people have healthy, respectful communication. We present ideas, tools, and techniques to help you transform conflict in relationships of all kinds. In this episode, we talk about Indigenous peacemaking with Brett Shelton. He's a member of the Oglala Sioux Tribe and a staff attorney at the Native American Rights Fund.

I'm Sam Fuqua, co-host of the program with Alexis Miles. Hi Alexis.

Alexis Miles: Hi, Sam.

Sam Fuqua: Great to be with you and great to be joined for this conversation by Brett Shelton. Hello.

Brett Shelton: Hello, you two.

Alexis Miles: Hi, Brett. Thank you so much for spending time with us today. Can you tell our listeners about the overall mission of the Native American Rights Fund and your current role in that organization?

Brett Shelton: Sure. The, the Native American Rights Fund, whose headquarters is in Boulder, Colorado, is the nation's oldest and largest nonprofit law firm dedicated to advancing Native American tribes' interests and, and also, uh, rights of individual Native Americans. And then, um, my role is that I'm a staff attorney at the Native American Rights Fund, and I'm responsible for the Indigenous Peacemaking Initiative, which we're gonna talk about today. And I also do policy work on sacred places protection, and some work around the Federal Indian Boarding Schools policy and healing from that policy.

Alexis Miles: So Brett, related to peacemaking, you've written about four Indigenous concepts that relate to peacemaking, um, using custom, Indian common law that comes directly from native language and cultural viewpoint, elders and oral tradition. Can you say more about these four concepts as they relate to traditional problem solving and conflict resolution?

Brett Shelton: Sure. Um, these are the places where tribal culture is stored and how it's transmitted. So, um, these concepts are, are basically, that's what it's about. That's what you need to allow to have voice in order for, um, traditions to be understood and utilized. And so, um, it's a matter of protecting those places, those instrumentalities, I guess, of culture and allowing or creating places for them to have voice in what should go on.

Alexis Miles: And can you say a bit more about each of those instrumentalities? So, using custom.

Brett Shelton: Yeah, using custom is basically using culture, uh, using something that's the way that your people have always done something.



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Alexis Miles: And also the, the notion that Indian common law comes directly from native language and cultural viewpoint. Can you say something about that?

Brett Shelton: Yeah. There again, I'll, this is a way that, uh, that native, uh, native worldview, native knowledge systems are transmitted. So really, uh, native language is the key to, to viewing the world through a native lens. And anybody who speaks a, another language is gonna be aware of this. Um, it provides a different lens by which you can view the world. And a lot of times, Indigenous languages have a lot of similarities in the worldview that they contain. And so it's a, it's really critical to have native languages, uh, be applied or have room for analysis in native languages if you're gonna have a traditional cultural bearing on whatever the issue is at hand.

Alexis Miles: So, I would like to come back to this point about an Indigenous worldview, but first I'd like to ask you about the remaining two concepts, Indigenous concepts that relate to peacemaking. So, elders.

Brett Shelton: Elders because they've lived long lives and because they reach into the past and generations, they've known that other generations alive didn't have the chance to know, um, carry knowledge. And so they have a position of reverence in general in Indigenous, uh, societies. Um, and it's a matter of deference to and respect for the knowledge that they would have, or it might be called wisdom of knowledge plus experience. So that's why elders are, have a prominent role in native cultures and they are the bearers of, uh, the most of the culture. So they, they can speak as authorities on the culture in general. And I should point that it's a, it's a position of honor and respect that's earned. And it's not just being elderly that makes one an elder, but it's actually having, having the ability to transmit and share the culture with other members of the community that's relevant.

Alexis Miles: And, and the last of those four concepts was oral tradition. And I think you've spoken to that as you spoke to the last three, but could you say a bit more about oral tradition?

Brett Shelton: Yeah. Uh, traditionally tribal cultures are carried forward orally and they're transmitted by the tribal language, and in some cases there's actually resistance to writing. So even though, you know, you can write any tribal language, and some tribal languages were written before, um, intervention by the English speaking world, even, um, it's generally through oral tradition that things are carried forward, and that's a, just a traditional way of, of transmission of culture and uh, it allows for a lot more richness than, than simply written language. There's so much more meaning can be conveyed in a wide range of meanings for any individual word might be relevant at any time, or multiple meanings at one time can work in a, in an oral tradition. Not to mention all the other sorts of communication that are carried in, in oral transmission of, of, uh, things such as intonation and, and so on, construction of sentences, and how, how ideas are run together.

Sam Fuqua: On that point, uh, Brett Shelton, is that a conflict or it must present a challenge, the respect for oral tradition with the law, right? Where every word is parsed in great detail and everything is in writing. This must be a daily challenge for you, or am I making a wrong assumption there?

Brett Shelton: It's not a wrong assumption, but I can actually add to it. Um, by the law, I think you're referring to basically American law, which is in the, is essentially the Anglo-European tradition that American law rises out of, it's a Western tradition.

Sam Fuqua: Yes.

Brett Shelton: A non-Indigenous tradition. And I would, I would argue it comes from a hierarchical tradition and a colonial tradition. Um, and there's other systems of law that, that are possible. Um, so when we talk about the law in the American sense, that's one thing, but on the other hand, there's already laws in each, uh, tribal nation that also are carried forward by the, and encoded in the tribal languages, um, because of the influence by the worldview. Um, highly complex systems, and it's, it's all there already. This might be called tribal law. Tribal common law. Um, there's a movement in, in American law that's just now starting, um, to really be specific about the difference between federal Indian law, which is the, basically the law of the colonizing nation, and how it's gonna deal with the, the Native Nations that are existent within the, the borders of the United States. And tribal law, which is the law of the tribal nations themselves, um, important distinction because there really are two types of laws. And that's what I'm saying is that sometimes application of tribal law can be more appropriate to a situation. And I actually think that the hierarchical nature and the colonizing nature of American law indicate that it might be a system that's actually unsustainable over, over generations along with the worldview that it comes from, whereas the tribal nation's law would tend to be more sustainable because it's arisen out of many, many generations of interaction with the environment and with other people and with other nations. So it, it has a, a better time proven history of sustainability.

Sam Fuqua: That's fascinating. Do you have an example of where tribal law in your work is the law that should hold sway as opposed to the, uh, Western or American or federal law?

Brett Shelton: Well, I, I guess the, the one that just came to mind for me, there was the whole dance around, um, climate change or global warming. Um, it's been really obvious to Indigenous people for a long time that a lot of the stuff that has led to global warming, ha, is, is wrong. It's simply wrong to pollute the air more than, than you can help. In other words, if you can help it, you shouldn't do it. Why? Because that's the nest that we all live in, basically the, the world here. And um, you know, I remember the first time, uh, I was in law school when I met Native Alaskans in the middle nineties and they told me that, uh, this global warming I'd been hearing about in college and so on, um, was actually going on from what they could tell because species that shouldn't be in certain places were in those places at a time when they shouldn't be there. So migrations of, of ocean species, um, which they're very well attuned to within their cultures were already starting to go, go, go wrong, basically. And so that's tribal law and application there. Meantime, um, I, you know, it's starting to become more and more clear to American lawmakers who are in charge that we should do something, but, you know, the horse may be out of the barn on it all. It may be too late. Uh, the global warming is clearly happening at this point. We've got climate change in full swing as, as we see the last few summers.

Alexis Miles: Related to that, you've talked about some of the commonalities that you see in Indigenous cultures around the world related to conflict resolution, and as you were just speaking, I was thinking, oh, there seems to be something very relational in the worldview of, of Indigenous people. Can you speak to that?

Brett Shelton: Yeah, a lot of times, um, I like to stack it up against the, the Anglo-Euro-American tradition where we really talk a lot about rights. That's, that's what the law is all about. And, uh, you know, we get, we get mad when somebody violates our rights, so we go to court and we want some help from somebody higher up to help enforce it and so on. Um, the, the worldview in a, in a lot of, or most Indigenous cultures that I've encountered anyway, is 180 degrees different. Um, instead of the R word Rights, there's some R words that are a lot more important. One is Relationships. Those are critical. Um, another is Respect. Another is Responsibility. And another is Reciprocity. Those R's kind of govern, uh, how one ought to act in an Indigenous worldview. So, for example, um, with Respect, to say I, there's, say there's a tree outside that

has some medicinal property that I'd like to use. Well, in the Anglo-American tradition, I can't go take anything from that tree if it's, if the tree's not my property. If I don't have title to the land, and therefore try, title to the living things growing on the land. Um, so if I were to go pick something off of the tree, I might be trespassing and I might be stealing from whoever owns, whoever has the title to that piece of land.

Um, from an Indigenous standpoint, it's not so much about title to the property as it is about the responsibility to do that properly. So I, I, there's a relationship that's assumed between me and the tree. And I need, before I can make use of something that the tree has to give, I have a responsibility to learn how to do that properly. There may be protocol to it and there may be just logistics to it. Um, there may be certain times a year when that medicinal property is optimal and that's when I should take whatever it is I need to take. So maybe the leaf or a piece of bark. There may be other things that I need to learn that go along with it. Um, there may be prayers that have to happen that, and that's a reciprocal notion. I have to give something back. So that's, see, it's a, it's a totally different worldview. At, at no point do I have a simple right to just go take something. Instead, I have all these responsibilities before I can even interact with the thing.

Alexis Miles: Are those concepts like reciprocity, respect, are they embedded into Indigenous languages?

Brett Shelton: Yes, yes. It's, it's just encoded too, and I, I don't have a way to, a linguist could probably illustrate it better, but yeah, it's just, the world's just entirely different through a native language than through English.

Alexis Miles: Now, Brett, as I understand it, you practice in both the tribal justice system and the US justice system.

Brett Shelton: Yeah.

Alexis Miles: So, in the tribal justice system, you've mentioned that some of the ways of resolving crimes and disputes could be peacemaking circles, sentence and circles, and other things like healing to wellness courts. Can you tell us more about those traditional forums?

Brett Shelton: Well, in the United States, most tribal nations have what's called a tribal court that was basically provided to them, usually under, um, a policy that was initiated in the 1930s and '40s called the Indian Reorganization Act. The idea was to set up tribal governments with something that's akin to maybe a cross between a municipal government and a, and corporate governance structure. And as, as part of that, then, you know, provide a tribal court that's basically a model that's a lot like a municipal court, which exists within the state systems in the United States. Um, those tribal courts have not worked out to the best. Um, just like in the mainstream, we, there's problems with the courts there. They could be improved on quite a bit coupled with the inherent problems with an adversarial court system. Um, the tribal courts are funded at about a third of the same level too, so they're, they're grotesquely underfunded and, and can't serve as well as they could. That, that sometimes some of the courts do a heroic job of, of serving the people within their jurisdictions considering all of the, um, all of the barriers to, to their effective functioning that are kind of inherent in the system.

But, one of the things that the tribal nations are seeing is if we, if they want to improve on those courts, one option that they have is to basically, um, institutionalize, grow, create room for the ways that their

ancestors resolve disputes or the ways that their people have always done it, and the ways that make a lot of sense to them from their cultural viewpoint. And so, um, that's why peacemaking comes up, and that's kind of a broad brush word that that's, uh, used to describe a, a kind of a range of processes. But generally, you might say it involves sitting together in a circle, and talking it out and talking it out by all the people who might have an interest or might be able to contribute to a positive outcome in the situation. So that's, uh, there again, a radically different view than a hierarchical court system like we have in the United States.

Sam Fuqua: It strikes me as related to this concept of restorative justice that perhaps has borrowed or, I don't know, appropriated ideas from Native American, uh, concepts of how to repair harm if, if a crime is committed. Is there, uh, a connection there?

Brett Shelton: Absolutely. I think the, the restorative justice movement writ large recognizes and is aware of its roots in Indigenous ways of doing things. You know, it's kind of clumsy about understanding just what that is, and so that's something that in our group, we've been trying to, to help figure out how to, how to actually acknowledge that in a meaningful way. But yeah, a lot of the leaders, um, national and internationally, of restorative justice do recognize the inherent roots of that system are of that movement in Indigenous ways of doing things.

Alexis Miles: So could you say more about that, Brett? You said in the Indigenous peacemaker circles process, there's a rich understanding of the impact of, of relationships. And I guess what you said earlier, respect, reciprocity, etcetera. Can you say more about who would be included in a peacemaker circle? What factors would be considered important in those kinds of things?

Brett Shelton: Yeah, I mean those values that you mentioned are values that will make their way into the circle because that's part of a cultural traditions of most tribal nations. So that's part of what's encoded in tribal languages and which, even if somebody didn't grow up in the tribal language, um, those values move forward in the, in the culture, in the English speaking culture 'cause we gotta remember tribal languages were basically stolen from tribes, um, for quite a while with, under part of an explicit policy to exterminate everything Native American in Native Americans and, and, uh, assimilate 'em to American English speaking culture. So those values carry forward and those are among what you see in the circle. Respect for what people have to say. And the idea that individuals coming from different perspectives are actually valuable to weigh in on a situation because they come with their own perspective. And so they can, they can have a unique view that they can share. They have, they might have unique resources that they could contribute to a solution.

Alexis Miles: Brett, you, you've stated that truth telling is widely recognized as the first step in conflict resolution. Why do you think truth telling is so important to conflict re, resolution?

Brett Shelton: Well, you can't really resolve a conflict until you're honest about what happened. But, um, when, where I've stated that is actually not about conflict resolution, it's about reconciliation. Um, when one group has harmed another. And so you have to, the first step in any reconciliation process is a truth telling. Um, and you can see that wherever reconciliation processes have been undertaken, um, South Africa comes to mind, um, and so on. And that's prescriptive for what the United States will need to do with respect to Native Americans. Tell the truth about its history rather than simply try to write Native Americans out of history or, or write in some crazy version about them.

Alexis Miles: You've said that there is cognitive dissonance related to Native Americans in the United States.

Brett Shelton: Yeah. So when you start to tell the truth about what has really happened in the history of the United States, then people have a hard time believing it, believing that it's true, even if it's documented. Um, and so they, they experience cognitive dissonance because the truth is so radically different from the myth that everybody's brought up to believe. Particularly people who are, um, the beneficiaries of the privileges that were ascertained by, by oppression of other people, basically.

Alexis Miles: And if a person is deeply interested in knowing what some of these truths are, is there a resource that you would refer people to as a beginning step?

Brett Shelton: I don't have that on hand. I've heard that *A People's History of the United States* is a book that tries to take a, um, more critical view and, and tries to come up with more real, realistic views. I know with respect to history involving Native Americans, the truth is, is increasingly coming out as a couple generations now of Native Americans have, you know, gone to college and, and been able to research and publish things that tell a counter, uh, a counter, what do I wanna say? A countervailing story about what really happened and, and closer to the truth because they have a vested interest in, in the healing that comes from that. So, yeah, I mean it's kind of piecemeal, I guess.

Alexis Miles: I see.

Brett Shelton: The history of America is a lot more than the history of a bunch of white men, basically. And it's boldly going forth and exploring and organizing, though there's been a lot of other people that have contributed to the history of America. Um, and sometimes those stories, stories are sad, in addition to, people haven't been given credit for, for all that they've done.

Alexis Miles: So what you just said, Brett, takes me back to what you said about peacemaking circles, that many voices are in that circle in order to get a complete picture. Is that an accurate assessment?

Brett Shelton: There's a lot more to it than that, but yes, that's true.

Sam Fuqua: On that point about telling the truth about our history as we record this in the summer of 2021, uh, the truth about Native American boarding schools is reaching a, a wide audience through the, the mainstream media. The horrific discoveries of mass graves, uh, at schools in Canada. The, uh, the issue of what happened in the United States and of course our new Interior Secretary being Native American, she has taken up the issue. Uh, what role is NARF playing, the Native American Rights Fund, and what does this, this particular moment where there is some general media interest and greater knowledge about the truth of this issue mean for, for Native Americans, particularly those who suffered under that system?

Brett Shelton: The truth is not actually out yet, but some of the, there's an indicator that there's, the truth is something other than what people already knew because people didn't know anything about this. Um, what remains to be told, and it needs to be researched, and that's what the Secretary of Interior's initiative on the boarding schools is all about, is what happened to the, who, who were the children? Who were all the children that were involved and what happened to each and every one of them? 'Cause each of those children had a family that they were taken from at home, and some of them never made it back. And you know, that's effectively been disappeared out of the dialogue for the last 100 years, 150 years. But it needs

to be told because those families remember, and because the impacts are ongoing. Um, and that's another piece of it too. The truth is also not just what happened to whom, but also why does that matter now? And it does. There's, um, increasing science to support, um, the idea of epigenetic transference of trauma or transference of trauma across generations until a healing actually happens. It's proven by now, and it's proven to be something that all mammals can experience, including humans. And so it's something that we deal with.

And then finally, what's the way out? 'Cause otherwise, why even address it if everybody's just in a mess because of what happened in the past. There are ways out. There is healing that can happen. And so that's part of what needs to come out too. Is, is and, and the tribal nations already have a good idea about that a lot of times because they've known the truth and they've been trying to heal from it for a long time. The awareness that the boarding schools happened is right now kind of, um, shocking America, and it's getting a lot of attention because it's so shocking, and because it's undeniable. And Secretary Haaland's, um, initiative will attempt to, to flesh out that truth in a meaningful way so that it actually can make a difference. And that's just one, one piece of the story there. But let's, are great, you know, we need to make progress there. And that starts to, to rattle the whole edifice about the American myth of its own history. And once we, once we erode that myth and get real, then we can all move forward together intentionally and, and learn from the mistakes of the past and correct the wrongs of the past as much as it can be corrected.

Sam Fuqua: What role is the Native American Rights Fund playing?

Brett Shelton: So the Native American Rights Fund did work in the area for quite a while and set a policy plan, but also because the Native American Rights Fund is a law firm, and that involves a lot of policy work and, and other sorts of work that's not necessarily legal work, advocacy, more than legal work, um, they, with activists who've been involved in the issue for a long time, created a nonprofit and spun that out. And that's the National Native American Boarding School Healing Coalition. They're supposed to be driving the, the national work in that right now. When needed, we'll still pitch in in terms of talk about the issue and so on, because it is something that native communities need help with. In the past, we've also helped with some, bring in some lawsuits to international forums because it's almost impossible to do in the US right now. Um, for various reasons we don't have time to go into, but tough to bring a lawsuit on at all. There was a lawsuit in Canada brought, but that's because the Canadian government enacted legislation that allowed it to be held liable despite the normal doctrine of sovereign immunity where a government can't be held liable for something that it did. That hasn't happened in the United States. There's no waiver of sovereign immunity of the government. Also, just to point out that the Canadian system was modeled off of the United States system. So, the United States needs to know that this isn't just an atrocity that happened in Canada. Canada was, was the, the little brother to the United States system.

Alexis Miles: You mentioned earlier, I believe, that part of what you do is work related to sacred places. Can you say something about that work?

Brett Shelton: Sure. I mean, there again, that's important for the exercise of culture, that, that, native people be allowed access to sites where they need to carry out obligations and sacraments of their, of their spiritual tradition. A lot of the sacred sites that the tribal nations in the US need are held in federal hands. They're held by the federal government. So, one of the things that we do at NARF besides bring lawsuits to protect sacred places, um, or protect tribal interest and sacred places, is also try to work on federal policy to make it, um, easier for native practitioners to access those places that are especially important for them to carry out their religious duties.



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Alexis Miles: And am I correct, am I understanding that religious duties would include things like reciprocity, respect, responsibility?

Brett Shelton: Sure. Those values are gonna be encoded in it, and there's just things that different, different traditions require that individuals do or groups do at a certain place. All of the federal lands were basically, have been taken and have been managed under the presumption that the tribal, um, connection to the land is not needed, shouldn't be supported, and will be extinguished. And yet the people are still here, the cultures are still here. They continue to need access to those sites despite the fact that the, the federal land management policies up to this point would prefer that they don't exist, but they still do. And we've got an opening. So, uh, a chance to, to influence federal policy to be more beneficial towards maintenance of those relationships between the people and, and those sites.

Alexis Miles: Those three areas you practice in, peacemaking, boarding schools, sacred lands. So they're all related. They aren't like individual silos, there's a relationship between the three.

Brett Shelton: Absolutely. Yeah. It's all about culture. Um, cultural preservation and restoration. Reinvigorating ways of life that in the end, offer potential to benefit everybody. I mean, as, when we were talking about climate change earlier, if we had listened to tribal voices about that rather than allow people standing to, to argue that maybe the science isn't real or whatever, for decades, then maybe we, we wouldn't, wouldn't be in the fix we're in. So everybody might stand to benefit. Um, these are more sustainable cultures.

Sam Fuqua: Brett Shelton, thank you so much for spending time with us and thanks for your work as well.

Brett Shelton: Thank you both. It's nice to, uh, hear your interest and to be indulged as I kind of rattle off about this stuff. It really is important stuff, so I'm glad you're open to it and sharing it with others.

Sam Fuqua: Brett Shelton is a member of the Ogalla Sioux Tribe and a staff attorney with the Native American Rights Fund. Their website is NARF, narf.org.

Our podcast is called, Well That Went Sideways! We produce new episodes twice a month. You can find them wherever you get your podcast, and on our website, sidewayspod.org. We also have information on our guests and links to more conflict resolution resources at the website. That's sidewayspod.org. Our program is produced by Mary Zinn, Jes Rau, Norma Johnson, Alexis Miles, and me, Sam Fuqua. Our theme music is by Mike Stewart. And this podcast is a partnership with The Conflict Center, a Denver-based nonprofit that provides practical skills and training for addressing everyday conflicts. Find out more at conflictcenter.org.