

Nurturing and Nudging Integration of Restorative Justice and Indigenous Peace-Making Methodologies in Manitoba Courts

by David G. Newman, Q.C.*



Brett Lee Shelton, and distinguished First Nations, Rotary, and Judicial guests after presenting on Indigenous Peacemaking at a presentation hosted by the Honoring Indigenous People Section of the Manitoba Rotary Club, on October 16, 2019.



Picture after a panel presentation on Restorative Justice and Tribal-State Collaboration hosted by the Manitoba School of Law (L-R) Law School Dean Dr. Jonathan Black-Branch, Michigan Supreme Court Justice Megan Cavanagh, Pat Cavanagh, Former Michigan Supreme Court Chief Justice Michael Cavanagh, NARF Staff Attorney Brett Lee Shelton, and Manitoba Rotary Honoring Indigenous People activist attorney David Newman.

Lawyers, Judges, Restorative Justice Practitioners, Law Professors and Students, Indigenous Justice leaders, Social Justice Activists Rotarians and members of the general public all had opportunities during October 16-19, 2019 to learn about this topic.

One of three guest to Manitoba to present on this topic was Michael Cavanagh. He was the catalyst and change agent for Indigenous dispute resolution method integration into the Michigan Supreme Court. He is now retired. Chief Justice Michael Cavanagh, as a Judge in that Court in 1992 began his personal and Court transformation. A hot tub discussion after a conference day with a wise and personable Indigenous Judge from a Tribal Court he just met in that venue led to a lasting friendship and learning for Michael. Learning for him meant for the first time becoming aware of the existence of such Tribal Courts and the fact that there was even a practice of Tribal Justice in the state. The stories of oppression and multi-generational damage to the Peoples of the now 12 federally recognized tribes in Michigan caused by boarding schools and racial discrimination were new to him. Michael shared what he learned with his fellow judges. They learned from him. In his humble and quiet but persistent way, by example, he led the Court to seek more understanding. He became an eager student of this history and situation today and shared it with his colleagues. He earned the friendship, respect and trust of the Indigenous Peoples in the Tribal Courts and the Knowledge Keepers. He served as Chief Justice and continued year after year to build relationships with the tribal Courts and identify how they could help each other. They co-created a Joint Forum that functioned informally as a collaboration, working together and evolving into win/win ways into recognizing jurisdictions, orders and judgments formally by the Court Rules. By the time of his retirement over two decades after 1992, this initially uninformed, Jesuit "white guy", his Indigenous friend and the colleagues of each of them facilitated the institutionalization of the Joint Forum to ensure it survived their retirements and mortality. How fitting it was to learn not only from Michael but also from another guest, Justice Megan Cavanagh, that when elected to the same Court in January 2019, she became his successor to representing the Michigan Supreme Court on the same Joint Forum. Megan is Michael's daughter. She shared details of the benefits to both her Court and Tribal Courts of this alliance.

The third guest was Brett Shelton. A Lakota senior staff attorney for Native American Rights Fund, Brett from Colorado gave Winnipeg listeners a compelling introduction about why and how Indigenous Justice systems that consciously seek to replace adversarial and punitive processes of colonizers function and what the results are, for not only the parties involved but for their communities. Brett travelled to this part of Turtle Island as our guest to spread the value to humanity of Indigenous Peace-Making approaches, including Restorative Justice processes. He shared this message with the help of a video and verbal presentation and then engaged discussions with audiences. Before the judges arrived, he spoke to a Rotary Club of Winnipeg public invited fund raiser for Honouring Indigenous Peoples. He visited the Canadian Museum for Human Rights later that day. He spoke with the Cavanaghs at the Law School to an open forum hosted by the Dean, and the next day he and the judges spoke at a CPD hosted by the MBA. The Social Planning Council (SPC) hosted him and the judges at a screening of a documentary about gangs in Winnipeg, and also showed a video in which Brett has a major role. Then a dialogue all at Circle of Life Thunderbird House with Urban Indigenous, lapsed gang members, activists, social workers, civil servants, Winnipeg Police Service Members, RJ practitioners a few lawyers and general public members. Friday evening SPC hosted us at "Meet Me at the Bell Tower" for documentary screenings, dialogues and a feast with lots of respect and love from the community for Brett and his work for Indigenous Peoples and for spending a Friday night on Selkirk Avenue with the AYO activists and their community members.

Before Brett and the writer left to go to "Meet Me at the Bell Tower" the Judges and Brett met with Ry Moran X-D of the National Centre for Truth and Reconciliation for a dialogue about Truth and Reconciliation on Turtle Island.

It was an instructive visit that is moving into the nudging stage efforts to extend what is happening in Michigan Courts to Manitoba Courts. This writer chaired the Civil Justice Review Task Force in 1996. The hopes of some visionaries in 1995 and 1996 in USA and Canada about replacing more and more adversarial and punitive methods with learning and transformative methods are now being re-ignited.

Is this the time for serious consideration of the integration of RJ and Indigenous Peace Making Methodologies in our Legal System to make it more accessible, just, inclusive and effective in Manitoba?

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