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Association



Tribal Peacemaking and Peace Circles: Comparative Models and Implementations



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Executive Director
National American Indian Court
Judges Association

April 17, 2024

www.naicja.org

Disclaimer

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PEACEMAKING JUSTICE CIRCLES TRADITIONAL CIRCLES

What we'll learn:

Introduction

Indigenous Justice Systems

Peacemaking - Paradigm Shifts

Core Values

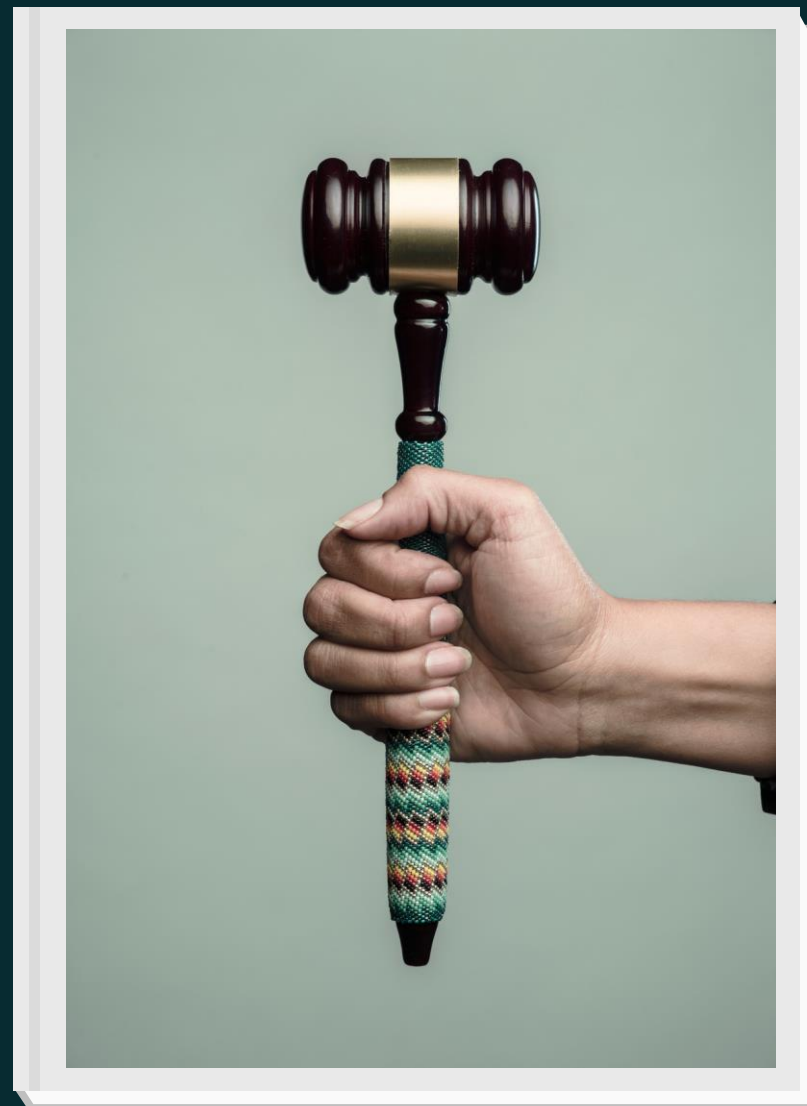
Comparative Systems

ABOUT NAICJA

The **National American Indian Court Judges Association (NAICJA)** is a national non-profit membership organization devoted to supporting and strengthening tribal justice systems through education, information sharing, and advocacy. NAICJA provides comprehensive training and technical assistance to support tribal justice system capacity-building; and partners with national organizations to educate the broader legal community and public about tribal courts and judges; and builds relationships between tribal and state court judges.



Part I.



INDIGENOUS JUSTICE SYSTEMS

TRIBAL JUSTICE SYSTEMS

- Systems (traditional & customary) existed since time immemorial
- Still actively engaged
- Tribal councils, elders councils, tribal committees, and peacemaking bodies
- Western adversarial-style tribal court





TRIBAL COURTS

- General jurisdiction trial courts
- Special jurisdiction trial courts
- Tribal appellate court (intermediate appellate courts are rare)
- Intertribal courts (frequently used for appellate)
- Traditional courts

Sources of Tribal Law

- TRIBAL TRADITION AND CUSTOM
- Tribal constitution (and bylaws)
- Tribal laws
- Rules, regulations and procedures
- Tribal judicial decisions



Part II.

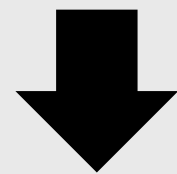


Peacemaking and Paradigm Shifts

THINKING ABOUT JUSTICE - PARADIGM SHIFTS

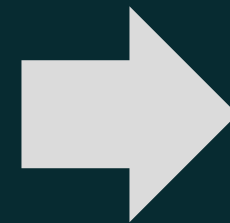
The paradigm shifts from the three questions posed in the criminal justice system:

- 1) what law was broken;
- 2) who broke it; and
- 3) how do we punish them?



...to a different set of questions when using a restorative justice approach:

- 1) who was harmed;
- 2) what does she/he need; and
- 3) whose obligation is it to meet those needs



Indigenous



Elements of Peacemaking

- **Core Values**
- **Process - Circle, Sacred Spaces**
- **Rules - Respect, Agree to Disagree, Tough on the Issue NOT the Person**
- **Outcome - Consensus or Time Out/Stopping the Process**

PEACEMAKING

- **CREATE**—the sacred space; setting of the space with prayer to create a space of harmony and confidentiality. Moving toward healing;
- **COLLABORATION AND COOPERATION**—The rules must be discussed in the spirit of cooperation, collaboration and respect. Focus on the Rule of Respect;
- **CLARIFICATION** of the issues; preserving and enhancing the relationship; moving toward fairness and tribal justice;

PEACEMAKING

- **CONSENSUS**—moving toward agreement and a compact (agreement); decisions and plans are made through consensus;
- **COMITY**--- respect. Mitigate suffering and move toward healing for the good of the community; solidarity and unity.



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CORE VALUES



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Community-Based Core Values Assessment

- Who decides?
- What does it mean to be [enter the name of your people here]?
- What is your relationship to land?
- What does it mean to be a good relative to each other ?
- What are the guiding teachings and principles of your people?



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Community-Based Core Values Assessment

Determining the community values

1. Surveys
2. Community Listening Session
3. Elders or Traditional Keepers
4. Getting Feedback

Synthesize and Finalize Rules



Community-Based Core Values Assessment



Procedure

- ✧ State the **purpose** of the session
- ✧ **Open** with prayer or moment of silence set the sacred space
- ✧ **Introductions**
 - Even though people may know each other, it is important to understand each person's role and hear the voices of the participants
- ✧ **Party filing the complaints goes first**
- ✧ **Questions**
 - Questions are allowed after everyone has an opportunity to speak
- ✧ **Closure**
 - Outcome expected
 - Memorializing the agreement
 - Safety and wellness
 - Agreement order
 - Close with prayer or moment of silence
 - Have all participants affirm each other's participation

Peace Circle



Rules

- ✧ Be tough on the issue but gentle on the person
- ✧ **Rule of Respect**
 - Respect for self, elders and others
- ✧ **Speaking**
 - Speak with care and respect
 - Only one person talks at a time
 - Use the talking tool (basket, etc.)
 - Silence and pauses are ok
- ✧ **Listening**
 - Listen well and with respect
 - Listen to learn
 - Listening is **MORE** important than talking
- ✧ **Consensus**
 - Consensus is critical
 - Build off of one another's ideas
 - Discussion, apology, and forgiveness
- ✧ **Passing is ok**

Part III.

COMPARATIVE EXAMPLES



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NAVAJO NATION PEACEMAKING





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NAVAJO NATION PEACEMAKING

- Key Principles
- Process for the Peacemaking Program
- Role of the Peacemaker
- Benefits of Peacemaking
- Modern Peacemaking





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MISSISSIPPI BAND CHOCTAW ITTI-CANA-IKBI COURT





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MISSISSIPPI BAND CHOCTAW ITTI-CANA-IKBI COURT

- Choctaw Peacemaking Philosophy
- Peacemaking Process
- Role of the Itti-Cana-Ikbi Facilitator
- Peacemaking Impact
- Preserving Choctaw Culture





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POKAGON BAND POTAWATOMI NATIVE JUSTICE INITIATIVE





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POKAGON BAND POTAWATOMI NATIVE JUSTICE INITIATIVE

- Key Components of Community Peacekeeper Sessions
- Process of Peace Circles
- The Pokagon Peacemaker
- Benefits of Peacemaking
- The Pokagon Difference





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Resources

Navajo Peacemaking Program, The Navajo Nation

<https://courts.navajo-nsn.gov/indexpeacemaking.htm>

The Value of Traditional Language in Peacemaking (Podcast)

<https://tribaljustice.org/2018/08/13/navajo-peacemaking-the-value-of-traditional-language-in-peacemaking/>

Robert Yazzie, Life Comes from It: Navajo Justice Concepts, 24 N.M. L. Rev. 175 (1994).

<https://digitalrepository.unm.edu/nmlr/vol24/iss2/3>

Mississippi Band of Choctaw Indians: Peacemaking Court (Video)

<https://tribaljustice.org/2019/05/23/mississippi-band-of-choctaw-indians-peacemaking-court/>

Pokagon Band Potawatomi Native Justice Initiative

<https://www.pokagonband-nsn.gov/government/tribal-courts/native-justice/>

Organized Village of Kake Circle Peacemaking (Video)

<https://tribaljustice.org/2018/08/13/kake-circle-peacemaking/>

Indigenous Peacemaking Initiative, Native American Rights Fund (NARF)

<https://peacemaking.narf.org/>

Tribal Justice System Planning: Incorporating Traditions, Customs, Values and Practices (Publication)

<https://ncjtc-static.fvtc.edu/resources/RS00009587.pdf>



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QUESTIONS ?



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THANK YOU!



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Email us at nikki@naicja.org or
elton@naicja.org if you have
more questions.