

Talk Story

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On to this week's interview:



Nearly 200 years ago, the U.S. federal government attempted—and failed—to remove the sovereignty of the Cherokee Nation. This history is personal for the writer of the forthcoming play “Sovereignty,” Mary Kathryn Nagle, whose great-great-great-great grandfather served as Speaker of the Cherokee Nation Council. Nagle is an enrolled citizen of the Cherokee Nation and is the executive director of the Yale Indigenous Performing Arts Program. She is also a lawyer working to protect tribal sovereignty.

What came first, your career as a lawyer or your involvement in theater?

They both sort of happened at the same time. To speak of “careers,” I definitely had a career as a lawyer before I had a career as a playwright. I think theater is a harder world to break into. Law is a very elite, and it’s all about what law school you go to, and what your rank is. So there’s a lot of elite metrics. That makes it a difficult field to just jump into and get to the highest echelons. But most people can get into a law school, even if it’s not their dream law school. And then the bar, it’s hard to take, but it’s something you can study for.

Theater, it doesn’t matter how brilliant you are, how creative you are. If you don’t know anyone? Your plays are not going to get produced at major theaters. I mean, The Public’s not out there producing anyone they don’t know. There are a lot of theaters that are doing amazing work with emerging writers, like The Public, and they have their writers’ groups where they seek out

unknown writers who aren't yet a part of the club. But I think succeeding in theater is more good fortune-based than merit-based.

What was your own path into playwriting?

I wrote my first play in college, and then I went to Tulane Law School and wrote a play every year I was a student there, and produced it with other students and faculty. I went to Georgetown at a time when they did not have a major in drama; it was my minor. I did a lot of debate in high school, and I also did theater. Especially in high school, the connection was maybe more obvious, because I was one of the nerds and the dorks. If you do debate, you're probably going to do theater.

Is this the first time your work in both fields has been so intertwined?

I've never really seen them as separable. Law is storytelling. And anyone who thinks it is not is just kidding themselves. When the Supreme Court makes a decision, they're telling themselves a story. You and I may agree or may not agree with that story. So it's a narrative. If you want to change the law, you have to change the narrative.

When I look at the law that the Supreme Court has espoused with regard to tribal nations, we're still dealing with the same narrative that the Supreme Court used in 1823 when the Supreme Court said that tribal nations can't claim legal title to their land because their citizens are racially inferior, uncivilized savages and heathens who don't worship Christ and apparently don't commercially exploit land, so they don't have all these legal rights. The Supreme Court never overturned that, never said that was wrong. And that case today forms the basis for the Supreme Court's case where the court took away tribal jurisdiction over its citizens, the prejudice that exists in American society, informs the Supreme Court's jurisprudence. I think that as a lawyer, you're a storyteller, and if you're not, you're a bad lawyer.

What are some of the major fallacies that Americans hold about treaties?

The major fallacy that most Americans hold about treaties is a failure to acknowledge that without the treaties signed with Tribal Nations, the United States—as a “sovereign” nation—would likely not exist. As Suzan Shown Harjo (curator of the Smithsonian National Museum of the American Indians [Nation to Nation exhibit](#)) has noted, after winning the war against the British, one of the first things General Washington did as President of the United States was sign a treaty with the Delaware Lenape. At that time, Britain, France, Spain were all signing treaties with and recognizing the inherent sovereignty of Tribal Nations. But no nation had, in 1776, previously recognized the sovereignty of the United States.

Through the signing of treaties, the United States was able to use the sovereignty of Tribal Nations to establish its own. Accordingly, treaties are not historic documents that belong to Tribal Nations alone. As Suzan Shown Harjo has repeatedly made clear, treaties are living documents that inform our understanding of the legitimacy of American democracy today.

Tell me about a career moment you're especially proud of, or one that you regret.

One of the moments that I'm most proud of is when I was clerking on the United States District Court, District of Nebraska. The two federal judges I clerked for allowed me, and gave me permission to, and supported the performance of a play in the courthouse to commemorate the 130th anniversary of a trial when a federal district court judge there declared Indians to be persons under the law. This was a Ponca trial member who was on trial 130 years ago in 1839, and we were able to invite the chairman of the Ponca tribe, Chairman Larry Wright, to come and speak on behalf of his nation, and do a re-enactment of the trial. It was really powerful. We had federal judges in the courtroom, and tribal citizens, and just ordinary folks from Omaha who were there to hear the story.

Sovereignty will premiere at the Mead Center for American Theater on January 12, 2018.