

Talking Cents

April 2020

Talking Cents is an ecumenical group charged by the Auckland Anglican Diocesan Council to promote an alternative to current economic and political thought and to encourage debate within the church. People are encouraged to distribute these articles widely. This contribution is from Anton Spelman who belongs to Ngāti Hikairo ki Kāwhia. He is also a parishioner of St Matthew-in-the-City and a member of St Paul's Eucharistic Community in Auckland.

Reimagining Treaty Settlements

I have been involved in researching and managing a Treaty of Waitangi claim for my iwi, Ngāti Hikairo ki Kāwhia, for over 20 years. The Treaty settlement process has been described as ground-breaking in that the Crown's commitment to owning its historical wrongdoing towards Māori and putting matters right is not standard practice for governments in other countries. Also it is claimed that New Zealand's approach to Treaty settlements, and the leadership of government in that process, has led to improved outcomes in our country's race relations.

For Ngāti Hikairo, and for many claimants generally, the Treaty settlement process is hard, even brutal. Designed by the Crown, it is presented to Māori claimants as the approach the Crown will adopt to achieve a full and final settlement of stated grievances. Claimants like us don't fully accept this notion of a 'full and final settlement', as the issue, like the process itself, is not negotiable and there are no alternatives for us apart from seeking redress in Court.

In recent times, a Crown apology has been included in the settlement package to acknowledge specifically the harm caused by the Crown's Treaty breaches. At first glance, giving an apology for wrongdoing seems a positive thing to do. However, from a claimant's perspective, it is controversial.

An iwi response to the Crown apology

In 2008, Taranaki Iwi introduced a new dimension to the claims settlement process by actively forgiving the Crown rather than just receiving a Crown apology and then 'settling' with them.

Authored by Archbishop Sir Paul Reeves as a Statement of Forgiveness¹, it cut across the transactional nature of the settlement process focusing specifically on the healing and reconciliation required for a relationship of trust to be further developed by both parties post-settlement. At the time, the statement was recognised by government as an important contribution to the settlement process and, on the surface, an attempt to link forgiveness to repentance makes a lot of sense. Unfortunately, this picture is less than straightforward.

The notion of an apology fits well into a truth and reconciliation framework. However, the Treaty settlement process was never set up on that basis. The 'full and final' requirement is one of the measures used by the Crown to ensure it has ongoing control of the function of government. That function, conceived within a coloniser's frame of reference and delivered monoculturally, assumes a definition of Māori as 'other' or 'a problem'. This creates tension by pitting the notions of kawanatanga and rangatiratanga against each other. It also restricts the scope of an apology which inevitably questions its credibility.

So if the apology is problematic, is the call to forgive equally problematic? In order to understand the Statement of Forgiveness, such as was proposed by Paul Reeves, we need to go to the New Testament.

Forgiveness in the New Testament is related to power and repentance and has some surprising dimensions. We see it operating in a hierarchical fashion in some of the gospels (Keene, 1995²), almost always from the more powerful to the less powerful, and between equals as seen in the apostle Paul's writings to the early Christian communities.

¹ <https://www.pnbt.maori.nz/the-settlement/statement-of-forgiveness/>

² <https://www.faithtrustinstitute.org/resources/articles/Structures-of-Forgiveness.pdf>

Keene notes the context of human forgiveness as being divine forgiveness and when divine forgiveness is granted unconditionally, the repentance required is to enable the recognition and acceptance of that forgiveness. Therefore repentance is not a precondition of forgiveness being granted.

Forgiveness of the Crown by Iwi, within a Crown paradigm, is thus an example of a lower power group attempting to forgive a higher power group, an impossible situation according to a number of New Testament commentaries (Keene, 1995). Liberation theology provides a way through this issue by positioning forgiveness within a framework of justice. A liberation theologian would argue that the powerful have to do more to achieve forgiveness than just 'making restitution' or, in other words, achieving a Treaty settlement. They have to give up their power and operate at least on an equal footing with claimants if they wish to be eligible for forgiveness.

There is no current evidence that the Crown is prepared to change Treaty settlement policy and give up its power within and beyond the current process. So can we conclude that the notion of a Crown apology and Iwi forgiveness are simply window dressing?

The process of relinquishing power is described in the New Testament as 'metanoia' (Keene, 1995). This involves turning round or turning back. So as repentance enters the picture, we need to ask how does it become a credible feature of any Crown apology and how can a claimant's power position be improved.

A way ahead

Improving the power position of Māori in the governance arrangements across all sectors has been a topic of intense debate and is part of the constitutional conversation that New Zealand has been attempting to have in recent years. One useful framework relevant to this discussion is the Two-house model, seen by Māori in the 1990s as a tool to enable institutional racism to be addressed. It was designed to provide a structurally different model of governance that improves the power position of Māori and breaks the cycle of Treaty grievance.

The Two-house model is a relationships model, not one shaped by rights, obligations and the law. Its base is Te Tiriti o Waitangi and the parties can be understood to be the Crown and Mana Whenua. A contemporary understanding of the identity of the Crown includes government and those non-Māori who come within the term Tauwiwi. A contemporary understanding of Māori identity is covered by the term Mana Whenua in a variety of Tangata Whenua iterations³.

The Two-house model is a power-sharing model that limits the ability of one house to dominate the other. It requires protocols of engagement and ways of working that reflect and respect worldview difference in order to enable working together in ways that reflect both worldviews together. Rights cease to be a driver in favour of relationships; and obligations, where they operate transactionally, are replaced by mutuality.

In the context of Treaty settlements, the use of a two-house model can help us move beyond the constraining effect of our colonisation history into a set of governance relationships between equals. There are some good examples of organisational change action that illustrate life beyond institutional racism and structural inequality (Community Sector Taskforce⁴ and New Zealand Coalition to End Homelessness⁵).

Changing our governance relationships ensures a more knowledgeable and respectful engagement of Tangata Whenua. It also opens up three genuinely bicultural opportunities to reshape our common ground and the way we work together: the sharing of suffering across worldviews (particularly relevant as we embrace COVID-19); the sharing of gratitude for relational achievements across the whole community; and the sharing of celebrations that reinforce the importance of relationship values and acknowledge the human spirit across cultures.

Moving to change our governance relationships is a commitment to ending the culture of entrenched privilege in our organisations. Surely this is the future we want for ourselves in Aotearoa New Zealand.

See link below for resources to support the leadership of change⁶

³ It is important to note that some Māori organisations which are constituted in terms of western legal frameworks may well be culturally closer to Crown worldview thinking and practice than to a Tangata Whenua worldview even though they are staffed by Māori and deliver services to Māori.

⁴ <https://trc.org.nz/sites/trc.org.nz/files/Application/A-New-Way-of-Working.pdf>

⁵ <https://www.nzceh.org.nz/komiti/>

⁶ <https://trc.org.nz/application/supporting-resources>