“It’s the putting it right that counts.”

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Ian Macduff (NZ Centre for ICT Law & School of Law, Auckland University)

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“The arc of the moral universe is long, but it bends toward justice”. Dr Martin Luther King, 1956
Readers from New Zealand who are of a certain age will remember the headline corporate promise that accompanied advertisements for the home appliances company, LV Martin & Son: “It’s the putting it right that counts.” Such was the commitment of the founding Director and then of his son to that principle that they even had their phone numbers on the advertisements so that aggrieved customers could call them personally. Regrettably, that company has gone the way of many family-owned entities in the face of competition from international mega-stores and online trading. Consumers who now seek redress and remedy might be justified in thinking that the commitment to repair went the same way.

One contemporary consequence of the lack of access to repair and redress is the relatively new “right to repair” movement, that has now found its way into legislation and advocacy for consumer rights in this field.

The repair story is typically one of short-term access to resolution and satisfaction – or frustration when either the fault cannot be fixed (it’s cheaper to throw away the offending item and buy a new one) or the original source is unresponsive.

However, a recent event in New Zealand politics and Maori-Crown restorative relations prompts this blog on the possibility of a long-term, multi-generational process of recognition, reconciliation and repair. On 19th December 2019, an event that is unique in our parliamentary processes and intercultural history took place: a Parliamentary Bill, the Rua Kenana Pardon Bill, was signed into law by the Governor General (the British Crown’s representative in New Zealand, though the post has been held by New Zealanders for the past several decades, as a move away from the lingering colonialism of importing such a delegate from the UK).

The significance of this apparently simple procedural event is at least threefold: first, it was the first time a Bill has been signed into law on a marae, or Maori meeting ground; second, it is the first time such a signing has been accompanied by an apology delivered on behalf of the Crown to the descendants and kin of an individual; and third, the event brought some closure to an injustice committed by British soldiers 103 years earlier. Hence my reference at the outset to Dr King’s hope for the long arc of reconciliation: “putting it right” matters, even a century after the event.

The signing of the Bill last year was the culmination of a negotiation and consultation that had been under way for at least two years, between the Government and the descendants of Rua Kenana and his whanau, or family. The negotiation was less about whether or not the pardon would be granted than about the form of words, the protocol and, if you like, the symbolism of reconciliation and the restoration of reputation that would accompany the formal granting of pardon. This also underscores the importance of a shared and agreed understanding of and contribution to the terms of the reconciliation: getting it right for all parties matters.

A bit of background information may be in order. At the turn of the 20th century, Rua Kenana was an unknown rural Maori labourer, living in a part of the country that had been deeply affected by the land confiscations of the latter part of the 19th century. Moved by the economic and existential suffering of his iwi (tribe), the Ngai Tuhoe people of te Urewera, Kenana established what was planned to be a self-sufficient community at Maungapohatu.

Parenthetically, it’s of historical and political interest that the Tuhoe people never signed the Treaty of Waitangi with the Crown in 1840, thus they hold to a claim that sovereignty over their lands was never ceded to the Crown, though the Crown assumed sovereignty nonetheless; and following a settlement between the Crown and the Tuhoe in 2014, te Urewera (the land, the place) has been granted legal personhood. (See my earlier blog for another example. When the process of reconciliation and restoration involves not only the people and a specific grievance but also their powerful connection to a place, the conversations necessarily become far richer.

Kenana’s commitment to pacifism and his resistance to the conscription of Maori youth into the British army brought him to the attention of the colonial authorities. So too did his emerging status as a religious leader. Indeed, he is typically referred to as a “prophet”. That spiritual leadership and the perceived threat it brought to the authorities led to the passing of the Tohunga Suppression Act of 1907, intended to stop any Maori traditional healing which had a spiritual element. (It should be noted, too, that some prominent Maori leaders supported that Act, as they were concerned that the persistence of traditional practices might hinder the progress of their people. That debate, between tradition and modernity, continues.)

Kenana’s first brush with the police was, however, the result of the discovery of illegal alcohol in the community. Kenana was himself opposed to alcohol but more inclined to regulation than prohibition. He was sentenced to prison and, on his release in 1915, was even more outspoken on pacifism and against NZ’s involvement in war. The police came to the community to arrest him on an earlier charge relating to illegal alcohol but he refused to come out. The government escalated matters by ordering a contingent of 70 armed officers to be sent to arrest him in April 1916. The immediate problem for the authorities was that the arrest was illegal as it was carried out on a Sunday, the one day the warrant did not apply. But violence broke out, 4 officers injured and two young Maori men, including Kenana’s son, were shot and killed. Kenana was arrested but the Crown failed to prove his part in any of the violence. Instead, he was convicted of “moral resistance” to his arrest. The novelty in this is that the conviction was an unintended result of a compromise – or error – within the jury, the majority of whom wanted him acquitted. The majority had not expected the judge would use that term – offered as a compromise within the jury room – to convict him
Kenana was sentenced to 18 months, and released after 8 months under restrictions. He continued to advocate for economic development for his people, none of which happened; and there has been no acknowledgement – until now – of the miscarriage of justice.

In reading about this recent development – the legislation, the significance of the signing of the Bill on the site of the historical wrong, the apology from the Crown – I am reminded of the work of Ron Kraybill on the cycle of reconciliation, which we have found of great value in representing the stages at which parties might find themselves in apparently intractable conflict. Key to this process – diagrammatic versions of which can be found online – is the recognition that, following injury, there will be a withdrawal from relationship; and this can typically only be restored when one of the parties makes an “internal” commitment to change and takes the risk to reach out to the other. The negotiations preceding the passing of the Rua Kenana Pardon Act might well be seen as part of the tentative steps in that reaching out, to work out the terms of the reconciliation and repair.

Substantively and historically, this is of course a long way from my opening reference to the often frustrated need to find ways to fix tangible and irritating problems; and it’s not my intention to draw any parallel in terms of sensitivity and significance. But there is a continuity here in understanding the durability of a sense of wrong, and the need – for individuals, corporations and governments – to find the mechanisms and language of repair.

Central to this historical process, in addition to formal legal pardon and deep symbolism of signing of legislation on the location of the historic wrong, are the Governor General’s clear words effectively pronouncing the ‘cleansing’ of the wrong, and restoring the mana of Rua Kenana. If ever there was a practical example of what the linguist John Austin referred to as a “performative utterance” – when words are neither descriptive nor evaluative but in effect “create” the outcome – this was it.