A Traditional Maori form of dispute resolution
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This paper will not go into all those unique aspects of Maori culture or in fact all those things that it shares in common with the other Polynesian cultures. This paper discusses a form of dispute resolution used in Maori culture and had developed strongly in Aotearoa/New Zealand. The information given here comes from oral sources and not from written sources. This process would have tribal or regional variations, however this appears to be a method of resolving disputes or dealing with issues or ‘crimes’ in Maori society. I will use Maori words in places where they are best with approximate translations provided.

Much of what has been written about Maori culture has focused on the warrior tradition, leaving a strong impression that all matters of conflict were resolved by fighting and killing often followed by cannibal feasting. This is naïve and fails to show how the culture had a strong internal justice system that could deal with significant disputes that affect the whole community. It was not however a system that could deal easily with more major disputes between iwi (tribes). This focus on the warrior culture is similarly reflected in a focus on revenge as a motivation for war. The Maori word utu has been used only to mean revenge, however a much more accurate meaning for utu is reciprocity. The principle of reciprocity or utu was (and probably still is) of prime importance in Maori society and it governed many transactions. The giving of gifts for instance, indebted the receivers to reciprocate to an even larger extent than that of the original gifting. At the level of a village the justice system needed to be able to be locally administered and not give rise to notions of utu which may cause the escalation of an original crime. This need for local harmony was perhaps a driver for a dispute resolution system that was not based on the Old Testament notion of an ‘eye for an eye’.

The process described here was used in one form or another for resolving disputes or maintaining justice within a community, which could be to do with crimes committed such as murder, rape, theft and a variety of other misdemeanours. It was also the way to deal with a variety of disputes within a village. It was not the only means of dealing with these matters but it was a significant way to maintain a community in good order. I will describe the process generally.

If a dispute arose or a crime committed in a village which involved or impacted on many members of the village a hui (meeting) would be called and all those who wished to be, or should be involved, gathered at the hui. No time frame was set for the duration of the hui but all those involved knew it would keep going until a consensus was reached, no matter how long that took. The key to the process was the method of dialog (the process can probably best be described as dialog) and how ‘issues’ are spoken about.
When all were gathered the korero (talk) would begin. The speakers would speak one at a time and each would know that their opportunity to speak a second time might wait until all others had had the opportunity to speak. The first speaker, knowing full well what the issue, which had caused the need for the hui, would be careful to avoid talking directly, or even indirectly, about the ‘issue’. Each speaker in turn would first accept what has gone before still avoiding talking directly about the issue would ensure in his/her korero he/she would add to what the previous speaker has said. Already you can see that this is completely at odds with how matters are dealt with today (even in much of Maori society), and many will say this would be completely hopeless. However in this process, where speakers do not stand to contradict the previous speaker and avoid speaking directly about the issue, that as the dialog goes around the group commonalities are found rather than enhancements of the original conflict.

In this process speakers need to listen very carefully to all previous speakers, rather than jumping up to counter points throughout the discussion. In this process a speaker must be able to capture their thoughts and then try to add something to the total dialog. Their opportunity to speak in the dialog may only come once and the opportunity needs to be carefully taken. Respect is given for those who could remember the entire discussion and the very best speaker would wait for the end to demonstrate their prowess, not only at oratory but also, at being able to recall all of what has gone before. One must remember that Maori was an oral culture and the society put high value on those whose oral and memory skills were well honed. In Maori society a leader of people was called a rangatira. This is a word made of two parts with its root being ‘tira’ meaning to knit together and ‘ranga’ meaning to uplift. Combined then a rangatira is someone who can uplift the people, while binding them together. This is a difficult combination of skills to attain and use. Rangatira could lose their status if they failed in their skills. Ariki on the other hand would be born to that status and would maintain it no matter what – lineage as everything for them and not their ability in leadership skills.

In the process of effectively skirting around the issue rather than confronting it effectively avoided confrontation but allowed the matter to be aired in an indirect fashion. All of the issues around the matter at hand could be addressed by raising them and having subsequent speakers add to the issue in turn. Eventually a consensus is arrived at, often without the matter causing the dispute having even been spoken of directly.

Today this mode of dealing with serious issues is still used by older Maori brought up in this way. It often infuriates younger Maori brought up in much more confrontational ways and for some this way of working is mistaken as weakness, vagueness or sometime just as stupidity. The cultural shift from the confrontational style to the indirect consensus building style is probably extremely difficult, but perhaps is no more difficult than the shift required for lawyers and the like, in the shift from adversarial litigation to mediation.