ANTI-PACIFIC ISLANDER BIGOTRY

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Introduction

'A'ohe pau ka 'ike i ka hālau ho 'okahi.
(All knowledge is not taught in the same school.)
'Ōlelo No'eau #203

This discussion begins by acknowledging its limits. First, the term "Pacific Islander" commonly functions as a catch-all, referring to any Indigenous Peoples of Oceania, including inhabitants and diaspora. By grouping together politically and culturally distinct Peoples into a single ethnic/racial category, the term is overbroad and often problematic. We adopt this terminology in this report, but we also dissect the "Pacific Islander" category to highlight the diverse experiences of Pacific Islander communities. Second, this report is written in a language that has historically been deployed, with other settler-colonial tools, against Indigenous Peoples to dispossess them of their ancestors' tongue and their connection to family, culture, and lands. Although relayed in English, this report nonetheless centers our Pacific Islander communities and values.

Sites of Bigotry

There's this notion that to understand how to truly be in the world, you can ignore the Pacific Islands.

– Teresia Teaiwa

Dispossession

Since time immemorial, Pacific Islanders have revered Oceania's vastness. Epeli Hau'ofa described how Pacific Islanders understand Oceania: "a large world in which peoples and cultures moved and mingled, unhindered by boundaries of the kind erected much later by imperial powers." Their cosmologies, languages, and traditions evince this deep understanding of their universe as "anything but tiny."[2]

To justify "conquest" of the Pacific, colonizers deployed their own narratives about Oceania. They painted a "bleak view" of Pacific Islanders' existence, depicted through "derogatory and belittling" images. In lockstep with their images, colonizers deployed the "rule of law" to legitimize their interests. In other words, settler-colonialism relies on its own derogatory stories about Oceania and its People (and the stereotypes and assumptions imbued in them) to justify their subordination.[3]

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[2]Epeli Hau'ofa, "Our Sea of Islands," *The Contemporary Pacific* 6, no. 1 (Spring 1994): 147, 152-54 (originally published in *A New Oceania: Rediscovering Our Sea of Islands* (Suva: School of Social and Economic Development, The University of the South Pacific, 1993)).

[3]For an in-depth explanation about how narratives and "collective memory" shape justice struggles, see Sharon Hom and Eric K. Yamamoto, "Collective Memory, History, and Social Justice," *UCLA Law Review* 47 (2000); Melody Kapilialoha MacKenzie & D. Kapua'ala Sproat, "A Collective Memory of Injustice: Reclaiming Hawai'i's Crown Lands Trust in Response to Judge James S. Burns," *University of Hawai'i Law Review* 39 (Summer 2017).

The objectification of the Pacific Islands as "exotic, feminized possessions of whiteness" pervade narratives told about Oceania and its Peoples. Thus, as Haunani-Kay Trask observed, most Americans claim the Pacific "is *theirs*: to use, to take, and above all, to fantasize about long after the experience."[4] This "logic of possession" endures as a (racial and gendered) "settler common sense"[5] – one encouraging "ignorance of, and yet power over"[6] Pacific Islanders. Ostensibly, it also justifies dispossession through militarization, criminalization, tourism, discrimination, and many other forms of colonial violence.

"Legal" Status

Bigotry manifests differently depending on the ways Pacific Islanders come into contact and interact with federal, state, and local governments and institutions. Individuals' rights and protections under the United States rely largely on their purported "legal" status, which depends on where they're born and reside.[7] "Legal" status seeks not to define Pacific Islanders on their own terms but through a settler-colonial lens, thereby disrupting communities' cultural connections and practices, their relationships to ancestral lands, and their health and wellbeing. Ultimately, it cuts away at Pacific Islanders' self-determination by defining them within the restrictions imposed by settler-colonial borders and laws.

American Samoa, Guam, and the **Commonwealth of the Northern Marianas Islands** are "unincorporated territories" of the United States. *The Insular Cases,* a series of nine U.S. Supreme Court decisions in the early 1900s, recognized two classes of U.S. territories. "Incorporated" territories are those slated for statehood. "Unincorporated" territories remain "foreign to the United States in a domestic sense" and the U.S. constitution does not fully apply to them. To create these legal fictions, the Court ruled that unincorporated island-territories were "inhabited by alien races" and, thus, "governing them according to Anglo-Saxon principles may be for a time impossible."[8]

Militarization displays the lasting narrative that, as asserted in *The Insular Cases*, these territories "belong to, but are not part of" the United States. For instance, roughly 28 percent of Guam is occupied by the U.S. military, and 1 in 8 CHamoru enlist hoping to advance their wealth and well-being. Guam ranks higher than any state in its per capita enlistment rates (American Samoa consistently ranks first among all states and territories).[9] Further, military occupation devastates Guam's environment, threatening not only natural resources but also the CHamoru traditions and customs intimately tied to them. The territory's "unincorporated" status stymies CHamoru efforts to exercise self-determination over their lands and protect against further destruction.

[4]Haunani-Kay Trask, "Lovely Hula Hands: Corporate Tourism and the Prostitution of Hawaiian Culture," in *From a Native Daughter* (Honolulu: University of Hawai'i Press, 1993), 180.

[5]Maile Arvin, *Possessing Polynesians: The Science of Settler Colonial Whiteness in Hawai'i and Oceania* (Durham: Duke University Press, 2019), 3.

[6]Trask, Lovely Hula Hands," 179-80.

[7]For instance, an individual Samoan is considered a "U.S. national" when they're born in American Samoa but would be a "citizen" if born in the states, or an "alien" if born in the independent nation known as Samoa. Each status carries with it different implications. Similarly, a Native Hawaiian born and living in the State of Hawai'i will be afforded different rights under the law than they might have under other federal and state governments.

[8]Downes v. Bidwell, 182 U.S. 244 (1901).

[9]Jon Letman, "Guam: Where the US Military Is Revered and Reviled," *The Diplomat*, August 29, 2016, https://thediplomat.com/2016/08/guam-where-the-us-military-is-revered-and-reviled/.

Hawai'i was admitted to the Union as a "state" in 1959. In 1893, a U.S. military-backed coup of white sugar barons and businessmen – who by then had control over Hawai'i's economy and much of its private property – took Hawai'i's Queen as a political prisoner and overthrew the Hawaiian Kingdom.[10] Against Kānaka Maoli's staunch opposition, the insurrectionists proclaimed to establish a "Provisional Government" as a step toward the goal of U.S. annexation. Most of the lands stolen from the Kingdom were eventually "ceded" to the state.

As a condition of its admission, the State of Hawai'i holds in trust approximately 1.3 million acres of public lands, including the natural and cultural resources they contain, for the benefit of present and future generations. Despite state constitutional and legislative mandates safeguarding the public land trust, "blood quantum" – the amount of "Hawaiian blood" a person is purported to have – hinders restorative justice efforts by limiting the state and federal governments' duties to Native Hawaiians. Further, differentiating "benefits" like housing on the basis of blood quantum arbitrarily divides community members and pits them against one another to compete for "scarce" resources.

The **Federated States of Micronesia**, the **Republic of Palau**, and **The Republic of the Marshall Islands** have a unique relationship with the United States through the Compacts of Free Association[11] – a series of treaties meant, in part, to compensate Islanders for the irreparable harm caused by the U.S. military's nuclear weapons testing from 1946 to 1958.[12] Under COFA, the U.S. enjoys exclusive military access to Compact areas and may demand land for operating its bases. While COFA citizens are not U.S. citizens or nationals, they may freely enter the United States to live, access health care, and work.

When forced to migrate to the states, Micronesians are often met with racial animus and discrimination. Sha Ongelungel denounced the way individual Micronesians who get into trouble with the law "quickly get held up as an example of the entire community."[13] For instance, at a sentencing hearing for a young Chuukese man convicted of manslaughter, the state prosecutor urged a Hawai'i circuit court judge to impose a 20-year prison term "to send a message out to the Micronesian community, mainly the males, [who have] the idea that they can just drink all they want and not be responsible for what happens after that."[14] As Charles R. Lawrence III underscored, our shared understanding of the cultural meaning

[10]Melody Kapilialoha MacKenzie, Susan K. Serrano, and D. Kapua'ala Sproat (eds.), *Native Hawaiian Law: A Treatise* (Honolulu: Kamehameha Publishing, 2015): 20-21.

[11]Compact of Free Association, U.S.-Micronesia & Marshall Islands, 48 U.S.C. § 1901 (1986).

[12]For more information on the United States' history with and impacts on Micronesia, see Eddie I. Yeichy, "A Failed Relationship: Micronesia and the United States of America," *Asian Pacific Law & Policy Journal* 20, no. 3 (May 2019); Megan K. Inada et al., "Chuukese Community Experiences of Racial Discrimination and Other Barriers to Healthcare: Perspectives From Community Members and Providers," *Social Medicine Publication Group* 12, no. 1 (2019).

[13]Anita Hofschneider, "#BeingMicronesian in Hawaii Means Lots of Online Hate," *Honolulu Civil Beat*, September 19, 2018, https://www.civilbeat.org/2018/09/beingmicronesian-in-hawaii-means-lots-of-online-hate/.

[14]The prosecutor also remarked:

> And when I talk about, perhaps, a sentence like this could save lives, I'm talking about sending a message to the Micronesian community.
>
> Even more so than just a community, but I say this, by no means to be a racist about anything, but in my experience, and I believe in the Court's experience as well . . . over the past few years, we have had a number of cases that have come in involving Chuukese Micronesian males drinking, not high on drugs, like [the] type of cases we're more used to seeing[.]
>
> But we're talking Micronesians who get inebriated on alcohol, then become violent with their own family members, their own friends and they involve knives . . . So we're talking about affording adequate deterrence of criminal conduct by sending a message.

State v. David, 141 Hawai'i 315, 322-23, 409 P.3d 719, 726-27 (2017).

of those words – "about Micronesians, about their blackness, their foreignness, . . . their less-human-than-the-rest-of-us-ness" – "reveals the racism we have all internalized and share."[15] It is "evidence of biases, conscious and unconscious, that none of us has escaped."[16] And it "implicates all of us."[17]

Erasure

Erasure of Pacific Islanders is necessary to bigotry's survival. "Official" data – like settler-colonial laws and policies – tell stories about Oceania that seek to erase Pacific Islander Peoples.[18] Moreover, data *inform* law and policy decisions, and vice versa. Governments and other institutions too often fail to collect and report accurate data about Pacific Islanders. When data are collected, they're usually aggregated and – in effect – mask the varied and distinct social, economic, and environmental issues that impact Pacific Islander communities. These data shape public perceptions of Pacific Islanders.

For instance, the Office of Management and Budget introduced "Asian Pacific Islander" as an ethnic category in the 1980 U.S. Census. In 1997, OMB separated the category into two – "Asian" and "Native Hawaiian or Other Pacific Islander." But the terminology "Asian American Pacific Islander" ("AAPI") persists.[19] When aggregated, statistics show that AAPIs boast the highest median household income of all racial/ethnic groups across the U.S. (approximately $75,000). But disaggregated statistics tell a different story: Micronesians, Tongans, and Samoans fall well below the national average of $50,000.[20]

When data erases Pacific Islanders, they tell stories that ignore ongoing project of colonization. Those stories then justify the continued subordination of Pacific Islanders and even blame them for it, all while concealing what's really going on – and what's needed – in their communities.

[15]Lawrence explained,

> I use these hard-to-hear words to describe our shared beliefs quite intentionally. They come from a lexicon that Americans have used to imagine and construct my own people. They are words that inhabit and shape the narrative of white supremacy, words and images that at different moments in history meant and signified Chinese or Japanese, that still often mean Filipino, or Samoan or Native Hawaiian, but in this moment in Hawai'i's history we have designated our brothers and sisters from the Micronesian islands to assume the role of blackness.

Charles R. Lawrence III, "Local Kine Implicit Bias: Unconscious Racism Revisited (Yet Again)," *University of Hawai'i Law Review* 37 (2015): 464, 466-67.

[16]Lawrence, "Local Kine Implicit Bias," 497.

[17]Lawrence, "Local Kine Implicit Bias," 466.

[18]Maggie Walter and Chris Andersen, *Indigenous Statistics: A Quantitative Research Methodology* (Walnut Creek: Left Coast Press, 2013).

[19]The AAPI umbrella term is still used in celebrations (AAPI Heritage Month in May), advocacy (APIA Vote, National Asian Pacific American Women's Forum), academia (AAPI student organizations and law journals), and most notably in research and data.

[20]Joyce Lee-Ibarra, "The Power and Potential of Disaggregated Data," *Hawai'i Data Collaborative*, July 21, 2020, https://www.hawaiidata.org/news/2020/7/21/disaggregated-data-power-and-potential.

Toward Restorative Justice

We must not allow anyone to belittle us again,and take away our freedom.

– Epeli Hauʻofa

We share the following framework as a tool for Pacific Islanders and allies to advance their pursuit of restorative justice, rather than proposing broad solutions that risk further overlooking or excluding distinct Pacific Islander communities. To contextualize bigotry within the broader history of settler-colonialism and forge a path toward restorative justice, we turn to "four Indigenous values for contextual legal analysis" – a framework for evaluating the harms of colonization to Indigenous Peoples and whether actions will result in on-the-ground justice for Indigenous communities or only exacerbate colonial harms.[21]

As outlined by Kapuaʻala Sproat, this contextual framework evaluates four values, or "realms." All four values are embodied in the human rights principle of self-determination and recognized under international human rights principles as salient dimensions of restorative justice.[22] Together, they help us better understand the complex and diverse legal, political, and historical differences and similarities among and between Pacific Islanders.

(1) Cultural Integrity. Cultural integrity's central role in Indigenous life and identity makes weighing cultural impacts a necessary starting point for any contextual legal inquiry involving Indigenous Peoples. Through this realm, we "must explicitly analyze history and socio-economic conditions in the context of cultural integrity and whether actions or decisions support and restore cultural integrity as a partial remedy for past harms, or perpetuate conditions that continue to undermine cultural survival."[23]

(2) Lands & Natural Resources. This realm "directly analyze[s] history and current socio-economic conditions with the intent of understanding whether a particular action perpetuates the subjugation of ancestral lands, resources, and rights, or attempts to redress historical injustices in a significant way." This realm is particularly important given the way historical narratives –particularly those retold through law and policy – have been constructed to justify dispossession of Indigenous Peoples from their lands, resources, and cultural identity. For Indigenous Peoples, this realm is the basis of their identity and culture.[24]

[21]D. Kapuaʻala Sproat, "Wai Through Kānāwai: Water for Hawai'i's Streams and Justice for Hawaiian Communities," *Marquette Law Review.* 95, no. 1 (2011), https://scholarship.law.marquette.edu/mulr/vol95/iss1/5.

[22]S. James Anaya, "The Native Hawaiian People and International Human Rights Law: Toward a Remedy for Past and Continuing Wrongs," *Georgia Law Review* 28 (1994): 342-60; *United Nations Declaration on the Rights of Indigenous Peoples*, G.A. Res. 61/295, U.N. Doc. A/RES/61/295 (Sept. 13, 2007).

[23]Sproat, "Wai Through Kānāwai," 177-80.

[24]Sproat, "Wai Through Kānāwai," 180-81.

(3) Social Determinants of Health and Well-being. Essential to the continued survival of Indigenous Peoples, social determinants of health and well-being (or "social welfare and development") are necessarily evaluated through examining history and socio-economic considerations. This realm asks: "does a decision have the potential to improve health, education, and living standards, or not?"[25]

(4) Self-Governance. Through this fourth realm, contextual analysis inquires whether and how an action or decision impacts Indigenous groups' ability to exercise their political and cultural sovereignty. Put differently, will a decision perpetuate "historical conditions imposed by colonizers or will [it] attempt to redress the loss of self-governance"?[26]

[25]Sproat, "Wai Through Kānāwai," 181-83.
[26]Sproat, "Wai Through Kānāwai," 183-85.