

Property Laws, White Settler Power, and the Kingdom of Hawai'i

Martin Rakowszczyk

Swarthmore College

The history of the Kingdom of Hawai'i is ultimately remembered solely as the tragic yet inevitable demise of a native-ruled polity in the face of overwhelming military pressure from great Western powers. While this may be the popular image, it is important to realize that many events and scenarios led up to and contributed to the destruction of the kingdom and its eventual annexation by the United States. Although much focus has historically been on the military pressures exerted by the United States and the United Kingdom on the so-called "Sandwich Islands," these states' economic and legalistic pressure was also important, especially with regards to land. Faced with rising government debt and a growing settler population threatening outright invasion, Hawai'i was forced to implement property laws formalizing foreign norms of real estate ownership. These laws, aimed mainly for the benefit of the settler population, did not work with native Hawaiian modes of living, causing widespread native impoverishment and ecological devastation and concentrating wealth and political power in white populations who eventually annexed Hawai'i to the United States.

Prior to Captain James Cook's fateful voyage in 1776, Hawai'i operated on a system of land ownership not conducive to Western economic means of production, such as plantation agriculture or forestry. The basic unit of 'āina, or land, was the ahupua'a, "pie-shaped land areas running around the ridges of the mountains or the banks of streams down to the ocean."¹ Each island was divided into these units, which were self-sufficient in all aspects; in fact, trade was "not a central culture practice."² The peasant population, or maka'āinana, meanwhile, was not formally tied to allocated plots, but rather lived in villages in the ahupua'a and raised chickens and pigs and farmed taro fields on small informally defined (and often overlapping) plots shared among extended families. According to historian Jocelyn Linnekin, for much of their diet,

¹ Jon M. Van Dyke, *Who Owns the Crown Lands of Hawai'i?*, (University of Hawai'i Press, 2008), 13.

² Mark Rifkin, "Debt and the Transnationalization of Hawai'i," *American Quarterly* 60, no. 1 (2008), 51.

villages as a whole had “*kuleana, right, responsibility...* to forage and gather in the common uplands and forests... and to fish”³ in the ahupua’a’s coastal area. Leaving one’s ahupua’a was uncommon and discouraged for commoners and the ali’i (chiefs) ruled one or several ahupua’a, spending time at each one and given these areas of land as responsibilities by the mō’i, or king of each island, in exchange for tribute. The concept of individual land ownership was foreign to native Hawai’ian thought, as the ahupua’a were thought of as unchangeable units of a community as a whole and chieftdom over each unit was seen as more of a customary role than a proprietary one. This system was relatively stable for around 500 years but could not withstand the pressure brought on by Western contact.

European arrival quickly destroyed this traditional system of land tenure and social organization. Beginning with the plagues brought by white voyagers and compounded by the introduction of alcohol and the musket, the native population of Hawai’i dropped from, according to one estimate, around 800,000⁴ in 1776 to just 80,000 by 1850. Widespread population loss led to many ahupua’a losing their ability to be self-sufficient and subsequent rural migration to ports frequented by Western sandalwood traders and whalers. These traders frequently visited ali’i, offering them guns, iron tools and food products in exchange for sandalwood or cash equivalent. These products’ prices were “grossly inflated”⁵ by profit-seeking merchants and many ali’i, either assuming they were gifts or not understanding the concept of interest, fell into debt, so much so that by 1826, the ali’i of Hawai’i collectively owed \$150,000 to American traders.⁶ This problem was augmented by the fact that, according to historian Ralph Kuykendall, “as the Hawai’ians did not keep written records... [American merchants] tended to prejudice their figures.”⁷ In 1825, the United States, fearful of British and Russian incursions into the islands and facing a monetary crisis of its own, sent the *USS Peacock* to Honolulu in order to force the ali’i to “pay all of the ‘debts’ in full,”⁸ signing an agreement to that effect backed with the implicit threat of bombardment. This violation of sovereignty, combined with increased trader presence and the decline of the native Hawai’ian population, greatly weakened Hawai’i and led to even more opportunity for foreign influence in the economy, which eventually ended the islands’ sovereignty.

While much of the Hawai’ian élite believed that these early incursions were isolated incidents and that traditional Hawai’ian modes of living could continue, increased Western interference in Hawai’ian affairs continued and it became clear that major reform was needed. The use of foreign warships to force debt repayment did not stop, as the *USS Potomac* visited

³ Jocelyn Linnekin, "Statistical Analysis of the Great Māhele: Some Preliminary Findings," *The Journal of Pacific History* 22, no. 1 (1987), 17.

⁴ Robert C. Schmitt, "New Estimates of the Precensal Population of Hawai’I," *Journal of the Polynesian Society* (June 1971), 237-48.

⁵ Rifkin, *Debt and the Transnationalization of Hawai’I*, 49.

⁶ Rifkin, *Debt and the Transnationalization of Hawai’i*, 48.

⁷ Robert H. Stauffer, "The Hawai’i-United States Treaty of 1826," *The Hawai’ian Journal of History* 17 (1983), 50.

⁸ Stauffer, *The Hawai’i-United States Treaty of 1826*, 49.

Oahu in 1832 for this purpose⁹ and in 1839, French Captain C. P. T. Laplace “threatened to fire on Honolulu unless given \$20,000”¹⁰ in compensation for, among other things, unpaid debts. Contemporaneously, according to scholar Jon van Dyke, “representatives of overseas nations began expressing their concern over their subjects’ inability to own property, sometimes supported by warships.”¹¹ The worst such incident was the Paulet Affair. In 1825, Prime Minister Kalanimoku awarded British Consul Richard Charlton “a 299-year land grant,”¹² the first of its kind, for him to build a house near Honolulu; in 1840, part of Charlton’s claim was invalidated by the mō’i, who was both wary of Western concepts of land ownership and who claimed exclusive authority to grant leases. A British naval convoy, under the command of Lord George Paulet, responded by annexing Hawai’i and keeping the mō’i under house arrest for five months. Although the Royal Navy repudiated Paulet and restored the Kingdom’s independence, this instance shocked Hawai’ian society. After this affair, the Hawai’ian state realized that it could not continue its traditional mode of existence and had to implement land legislation to please white populations or risk outright annexation.

After the Paulet Affair, as immigration continued to increase, native Hawai’ian populations to decrease and ali’i debt to grow, “the pressure on the mō’i to grant landownership to protect the capital investments of immigrants likewise multiplied”¹³ and Hawai’i was forced to implement land reform. By 1845, the British government publicly floated the idea of military “interference... to compel a change in... Hawai’ian land policy.”¹⁴ Simultaneously hoping to avoid the fate of New Zealand, fearful of the growing power of the United States and eager to use a Western style of governance for the benefit of his subjects, the mission-educated Kamehameha III established in 1846 the Board of Commissioners to Quiet Land Titles, aiming to establish a land regime for his state.¹⁵ The board consisted of two ali’i, a mixed-race trader and two haole (white) merchants, one of whom, William Little Lee, was one of two lawyers in the entirety of Hawai’i.¹⁶ After two years of deliberation and negotiations between foreign consuls, members of the court and the ali’i, in 1848, the Board began what is now termed the Great Māhele. Under this program, all land in the Kingdom would be surveyed and roughly two-thirds chosen by the mō’i, half of which was “added to the government lands,”¹⁷ mostly consisting of economically useless high mountaintops and swamps, while the other half would become private Crown Lands. The remainder would be given to the ali’i, who had a right to claim much of their ahupua’a, and the commoners, who could claim small fee simple entails.¹⁸

⁹ Ralph S. Kuykendall, *1778-1854: Foundation and Transformation*, 5th ed. Vol. I of *The Hawai’ian Kingdom*, (Honolulu, HI: University of Hawai’i Press, 1938).

¹⁰ Rifkin, *Debt and the Transnationalization of Hawai’i*, 59.

¹¹ Van Dyke, *Who Owns the Crown Lands of Hawai’i?*, 27.

¹² State of Hawai’i, “The Charlton Land Claim,” Department of Accounting and General Services, accessed April 20, 2019, <http://ags.Hawai’i.gov/archives/online-exhibitions/centennial-exhibit/kekauluohi/the-charlton-land-claim/>.

¹³ Van Dyke, *Who Owns the Crown Lands of Hawai’i?*, 25.

¹⁴ Kuykendall, *Foundation and Transformation*, 294.

¹⁵ Linnekin, *Statistical Analysis of the Great Mahele*, 15.

¹⁶ Van Dyke, *Who Owns the Crown Lands of Hawai’i?* 33.

¹⁷ Kuykendall, *Foundation and Transformation*, 289.

¹⁸ Linnekin, *Statistical Analysis of the Great Mahele*.

The Board's hope was that by giving lands to the ali'i in perpetuity, chiefs could continue the ahupua'a system and please Western powers by settling their debts through land leases, while permanent grants to commoners would, in the words of a contemporary journalist, "rouse the industry of the people"¹⁹ and contribute to internal economic growth to fend off Western domination. Thus, although such legislation was in essence forced upon Hawai'i, it was hoped that the process could be done in such a way as to also benefit native Hawai'ians and their way of life.

However, poor planning, infighting and corruption quickly destroyed this ideal and resulted in the near-total economic domination of the country by a growing class of haole planters. The Board itself was corrupt, with William Little Lee actively denying land rights to natives and after learning that many poorer Hawai'ians could not afford the filing fee to the Board, "purchas[ing] the[ir] claims" at the same time he was "adjudicating such claims"²⁰ and in the process becoming one of the richest landowners in the islands. Simultaneously "some [ali'i], motivated by self-interest ... encouraged their commoners"²¹ to refrain from making claims, hoping to expand their own. Augmented by "an insufficient number of competent surveyors,"²² the belief of many maka'āinana that their kuleana rights would be protected on others' fees simple estates and a lack of advertisement to the commoners, the majority of claims went unfiled and by the Board's dissolution in 1855, there was "only one claim for every six maka'āinana."²³ The lack of land rights for the maka'āinana led to many of these farmers moving to cities when ali'i sold their estates to white debt-holders, losing their traditional rural safety nets and often falling into poverty as a result. This inadvertent impoverishment and dispossession of the commoners' land greatly contributed to Hawai'ian poverty and paved the way for growing haole economic dominance.

Increased Western pressures for land combined with a series of flawed government and personal decisions by the mō'i led to a substantial increase in white landownership, causing an increase in haole power. At the end of the Māhele filing period, the ali'i received a total of around 2,300 square miles of grants, while commoners collectively received only fifty.²⁴ Given the evident failure of the Māhele in this regard, the Hawai'ian government passed the Kuleana Act of 1850, "which granted some gathering and use rights to the maka'āinana"²⁵ on private lands. Many whites viewed this as a violation of their holdings and American consul Tan Eyck warned Kamehameha that the Kuleana Act and the few land awards granted to haole "afford[ed] just cause for the active intervention of foreign governments."²⁶ However, Western displeasure with the Hawai'ian land regime soon subsided, as Kamehameha's new law in 1850 requiring taxes to be paid in species, in order to raise a balance of trade and maintain Hawai'ian economic

¹⁹ Kuykendall, *Foundation and Transformation*, 292.

²⁰ Linnekin, *Statistical Analysis of the Great Mahele*, 39.

²¹ Linnekin, *Statistical Analysis of the Great Mahele*, 18.

²² Kuykendall, *Foundation and Transformation*, 281.

²³ Linnekin, *Statistical Analysis of the Great Mahele*, 27.

²⁴ Linnekin, *Statistical Analysis of the Great Mahele*, 27.

²⁵ Van Dyke, *Who Owns the Crown Lands of Hawai'i?*, 39.

²⁶ Kuykendall, *Foundation and Transformation*, 296.

independence, led many commoners and ali'i to sell their lands and move to cities²⁷ and the death of Kamehameha in 1854 led to "a significant portion of the King's land [being] auctioned off" due to his nearly \$31,000 in personal debt.²⁸ Flawed financial decisions by the Hawai'ian government led to desperate attempts to raise revenue, such that "by 1873, more than 590,000 acres of the Government lands had been sold"²⁹ to haole investors. Missionaries and their families quickly bought these Māhele land plots being resold and established large plantation farms of pineapple and, after the collapse of the South's sugar industry in the wake of the abolition of slavery, sugarcane. This new oligarchy of planters wrecked ecological and economic devastation upon the native Hawai'ians and used their wealth and connections to the United States to increasingly control Hawai'ian institutions for their benefit and eventually end Hawai'ian independence. In such a way, critically flawed land legislation and government decisions led to the emergence of a haole élite economically dominating the islands and eventually annexing them to the United States.

The establishment of a haole planter élite led to substantial ecological changes to Hawai'i's landscape that further undermined the ability of native Hawai'ians to continue their traditional way of life and of the Hawai'ian government to provide for its own people. As whaling died down and sugarcane plantations became the backbone of Hawai'i's economy in the second half of the 19th century, sugar planters of haole, Chinese and Hawai'ian descent required massive amounts of water to grow the crop. Mō'i Kalākaua, in particular, looked to sugar as an economic activity in which native Hawai'ians could participate and subsequently sold much of the Government lands to Hawai'ian planters.³⁰ Kalākaua was also no doubt influenced by the fact that his tight victory in a special election to the throne was almost entirely due to lobbying by sugar planters.³¹ However, Western planters, backed by steam power and American capital, vastly outcompeted native owners, who, unable to remain profitable, "sold [their lands] to Haole capitalists,"³² resulting in much of these lands ending up in American hands. According to scholar Carol Wilcox, the sugar planters, often based inland and upriver of taro fields, "transported enormous quantities of water permanently out of the streams" and rivers that fed native Hawai'ian villages; this, in turn, caused these villages and traditional lands to be abandoned, as farmers could not get "a sufficient quantity of water"³³ to continue traditional agriculture and sold their lands to these same planters. This led to a near-exponential increase in the amount of sugar cane, to the point that there were 60,787 acres planted in 1889.³⁴ The

²⁷ Linnekin, *Statistical Analysis of the Great Mahele*, 33.

²⁸ Van Dyke, *Who Owns the Crown Lands of Hawai'i?*, 43.

²⁹ Van Dyke, *Who Owns the Crown Lands of Hawai'i?*, 54.

³⁰ Carol Wilcox, "Water Use and Rights," In *Sugar Water: Hawai'i's Plantation Ditches*, (University of Hawai'i Press, 1996), 30.

³¹ Summer La Croix, "Economic History of Hawai'i," EH.net Encyclopedia, last modified September 27, 2001, accessed April 20, 2019, <https://eh.net/encyclopedia/economic-history-of-hawai'i/>.

³² MacLennan, Carol A. "Sugar's Ecology." In *Sovereign Sugar: Industry and Environment in Hawai'i*, (University of Hawai'i Press, 2014),37

³³ Wilcox, *Water Use and Rights*, 29.

³⁴ MacLennan, *Sovereign Sugar*, Appendix.

destruction of native streams also led to the drying of land, a problem compounded by cattle. Cows, introduced to the islands by Europeans in 1804,³⁵ formed an important part of haole agriculture and were often left to roam free on upland pastures. The cattle often trampled native Hawai'ian lands, devastating the maka'āinana, who “would have been unlikely to hire a lawyer” and get compensation due to the high cost of a lawsuit.³⁶ More devastatingly, however, the cattle, referred to by ecologist Christopher Lever as “the single most destructive animal in the islands,”³⁷ killed young trees, which, when combined with water diversion from streams, led to a noted decrease in rainfall, increased soil erosion and a reduction in the beneficial wind patterns which enabled much of native Hawai'ian agriculture, leading to “denuded hills”³⁸ in formally thriving villages and the ecological devastation of much of rural Hawai'i. This devastation further increased the poverty of native Hawai'ians, as the settler élite continued accumulating wealth, leading to massive haole political influence and a weakened Hawai'ian government further unable to defend its own people against foreign influence.

Badly implemented laws and government directives, which provided no limits on cattle grazing and inadvertently increased the size of holdings by haole sugar planters, led to a devastating economic situation for native Hawai'ians, compounded by immigration and increasing haole influence in the government, particularly in education. With traditional lands essentially agriculturally worthless and an ever-decreasing native population, Hawai'i was left with a large population of native urban poor workers and little to counter the economic power of sugar planters, with the white and Portuguese³⁹ population outnumbering natives by 1853.⁴⁰ Benefiting from their American connections, haole planters grew incredibly wealthy and soon commanded the Hawai'ian economy, producing the majority of Hawai'i's exports. Concerned about the decrease in the size of the native labor pool and with strong influence over mō'i Kalākaua, whose throne they helped gain, these planters pushed immigration strategies to get indentured servants for sugar plantations. By 1890, more than 50,000 workers, predominantly Chinese, Puerto Rican and Japanese,⁴¹ had moved to the islands. These workers, with little to no legal rights, were significantly cheaper than native Hawai'ian labor, leading to a substantial decrease in the hiring of Hawai'ians on plantations, further stressing the economic situation and forcing even more natives to sell their plots. Additionally, the decrease in salaried positions for Hawai'ians diminished the share of native representation in the government, as many Hawai'ians found themselves under the income line to vote, increasing haole representation and influence in the Legislature. By 1890, haole, despite being a minority of the population, owned nearly three-

³⁵ John Ryan Fischer, "Landscapes," in *Cattle Colonialism: An Environmental History of the Conquest of California and Hawai'i*, (University of North Carolina Press, 2015), 56.

³⁶ Linnekin, *Statistical Analysis of the Great Mahele*, 32.

³⁷ Fischer, *Landscapes*, 61.

³⁸ Fischer, *Landscapes*, 62.

³⁹ Who were not legally considered white in Hawai'i.

⁴⁰ La Croix, *Economic History of Hawai'i*.

⁴¹ Carol A. MacLennan, "Planters Organize," In *Sovereign Sugar: Industry and Environment in Hawai'i*, (University of Hawai'i Press, 2014), 223.

quarters of all private land⁴² and comprised half the electorate. With this newfound wealth and political influence, planters began pushing for more political change to their benefit, changing the Hawai'ian educational system from primarily mission-run schools to "a system of manual training and rudimentary literacy conducive to an expanded laboring class that served haole planter interests"⁴³ intended mainly for native and Asian children. Not only was this economically useful for plantation owners, but it also caused further marginalization of the Hawai'ian population, who, with the exception of élites at private schools, were not given the education and training to pursue careers outside the planter system. By destroying native agriculture and not allowing native Hawai'ians the education to pursue independent business opportunities and later employment at the increasingly powerful plantations, the settler élite thus further marginalized the native population, reducing their power at the same time as massive immigration reduced the native share of the population and led to a Hawai'ian kingdom almost completely dominated by settlers.

The political consequences of this increased settler wealth and native Hawai'ian dispossession ultimately led to the end of Hawai'ian independence and annexation to the United States. Sugar planters organized in societies such as the Hawaiian Club of Boston and its successor, the Planters' Labor & Supply Company (PL&SC).⁴⁴ These lobbying groups worked in both the United States and Hawai'i, seeking trade deals with Washington to augment sugar interests and simultaneously pushing the Hawai'ian government to pass legislation for their benefit, often with the implicit threat of annexation should their goals not be obtained.⁴⁵ Pressure reached a boiling point in 1886 when Kalākaua, having recently been asserting policy more independent from the planters, sought to increase government spending by applying for a \$2 million loan from the British government, to the chagrin of Claus Spreckels, a planter who was owed \$720,000 by the Hawai'ian government and who was worried that this loan would weaken his political influence.⁴⁶ Many planters, worried that the loans would mean an increase in taxes, similarly turned against the mō'i. After a bitter election season with overt calls by native politicians to Hawai'ian nationalism and a policy of "Hawai'i for Hawai'ians," in 1887, planters teamed up with the haole Hawaiian League and its paramilitary arm, the Hawaiian Rifles, ideologically supported by the PL&SC,⁴⁷ to force the mō'i, upon the pain of death, to accept a new constitution, the Bayonet Constitution, in what can be described as a coup. Under this new state of law, the royal family was reduced dramatically in power and new property requirements for the legislature "were steep enough that the House of Nobles was primarily selected by and composed of Westerners."⁴⁸ Noticeably, the new constitution placed economic interests at the

⁴² La Croix, *Economic History of Hawai'i*.

⁴³ Clif Stratton, "Hawai'ian Cosmopolitans and the American Pacific," In *Education for Empire: American Schools, Race, and the Paths of Good Citizenship*, (Oakland, California: University of California Press, 2016), 91.

⁴⁴ MacLennan, *Planters Organize*, 235.

⁴⁵ Van Dyke, *Who Owns the Crown Lands of Hawai'i?*

⁴⁶ MacLennan, *Planters Organize*, 234.

⁴⁷ MacLennan, *Planters Organize*, 235.

⁴⁸ Van Dyke, *Who Owns the Crown Lands of Hawai'i?* 122.

forefront and consisted of an all-white cabinet, which made overtures to the United States for outright annexation, seeing better sale prices for their sugar crop as an American territory. After Kalākaua's death and the ascension of his sister, Lili'uokalani, to the throne, many planters dismissed her outright as a puppet. Only after the new mō'i "signaled a possible return to the 1864 constitution"⁴⁹ in 1893 did the Hawaiian Rifles, backed by the U.S. Navy, overthrow the monarchy and create the strictly white-ruled Republic of Hawai'i, subsequently annexed by the United States in 1898. An economically and politically empowered haole élite, supported by the wealth of their large landholdings, thus ended ninety-eight years of Hawai'ian independence.

To claim that a historical event was due to just one cause or person is often to ignore the complexities and nuances that define history and life. In the case of the Kingdom of Hawai'i, American military pressure and eventual intervention was not the sole cause of the loss of independence. Forced to please American and British business interests, the Hawai'ian government instituted land reform simultaneously intended to aid haole settlers and merchants and maintain Hawai'ian sovereignty and control over the land. Given the constant threat of annexation by Western powers and the pressures of the haole lobby, it is not surprising that Hawai'ian land legislation was critically flawed, transferring vast amounts of land to white settlers, creating a plantation economy and ultimately leading to the destruction of Hawai'i as it was. Corruption, bad economic decisions and constant settler pushback created imperfect legal processes, which led to haole accumulation of land and subsequent economic dominance and the simultaneous environmental and economic destruction of native, particularly maka'āinana, lands. These two phenomena led to native Hawai'ian impoverishment, a growing settler influence on the government and the eventual overthrow of Hawai'i by a landed settler class with economic interests better suited by annexation to the United States. More than one hundred years after annexation, Hawai'i remains a settler state, with the military-industrial complex and mega-corporations' tourist enterprises replacing the plantations of yore; whether the status of native Hawai'ians, currently a subaltern minority in their own islands, will ever change and Hawai'ian sovereignty will ever be regained is an open question. However, with an increasingly activist Hawai'ian sovereignty movement, Lili'uokalani's prayer that *e ola e ola ka mō'i*, that god smile upon the islands' independence, is still the hope for thousands.

⁴⁹ Van Dyke, *Who Owns the Crown Lands of Hawai'i?* 221.

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