RETHINKING ALLIANCES: AGENCY, RESPONSIBILITY AND INTERRACIAL JUSTICE

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Despite being linked to each other, we remain hostile strangers.

John Powell[1]

[Asian Americans are settlers] either ignorant of, or hostile to, understanding Hawaiian history and present-day Hawaiian claims.

Haunani-Kay Trask[2]

Can we all get along?

Rodney King[3]

I. INTRODUCTION

John Powell and Haunani-Kay Trask observe nonwhite racial groups in the United States linked as "hostile strangers." Rodney King pleads for all to "get along." Their statements raise broad concerns about contemporary relations among racial groups. They also raise particular concerns about racial conflict involving Asian Americans. In this Article, I address conflict among nonwhite racial groups by examining the prospects and problems of interracial healing and coalition-building—rethinking alliances. Upon what material and theoretical foundations can racial groups not only live together peaceably but also work together politically? And what does living peaceably and working politically with others mean for Asian Americans, the fastest growing racial group in the United States, a primary target group during the 1992 South Central Los Angeles firestorm, and a group sometimes called a model minority and other times charged with ignorance of and hostility toward other racial groups?[4]

Recent scholarship on coalition-building tends to be ahistorical. It focuses primarily on a search for "common ground"—the necessity and difficulty of locating common political-economic interests between Korean Americans and African Americans, for example.[5] Other related scholarship focuses on culture—fostering

1. John Powell, *Talking Race*, HUNGRY MIND REV. 15 (Fall 1994).
2. Haunani-Kay Trask, *Coalition-Building Between Natives and Non-Natives*, 43 STAN. L. REV. 1197, 1205 (1991).
3. *Rodney King Speaks Out: 'Can We All Get Along?'*, N.Y. TIMES, May 2, 1992, at A1, A6.
4. *See* BILL O. HING, MAKING AND REMAKING ASIAN AMERICA THROUGH IMMIGRATION POLICY 1850 TO 1990 (1993) (addressing impacts of immigration law and policy and demographic and political consequences for Asian Americans); Paul Ong & Suzanne J. Hee, *The Growth of The Asian Pacific American Population: Twenty Million in 2020, in* THE STATE OF ASIAN PACIFIC AMERICA: A PUBLIC POLICY REPORT 11: POLICY ISSUES TO THE YEAR 2020 (1993).
5. *See, e.g.*, Edward T. Chang, *Jewish and Korean Merchants in African American Neighborhoods: A Comparative Perspective*, 19 AMERASIA J. 2, 18 (1993) ("Korean American and African American communities must actively seek and create agendas and issues that will bond and strengthen both communities."); Ella

understanding of differing group cultural behaviors[6]—or on social structure—exploring ways in which dominant institutions construct racial conflict.[7] The search for common political-economic interests among racial groups and the focus on differing cultural behaviors and on Anglo American institutional power yields important insights. Those efforts, however, also constrain the field of inquiry; they tend to obscure a foundational component of groups "living peaceably and working politically together."

That foundational component is interracial justice. Interracial justice, as I conceive it, reflects a commitment to anti-subordination *among* nonwhite racial groups.[8] It entails a hard acknowledgment of the ways in which racial groups have harmed and continue to harm one another, sometimes through forms of oppression, along with affirmative efforts to redress past harms with continuing effects. More specifically, interracial justice is comprised of two related dimensions. One dimen-

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Stewart, *Communication Between African Americans and Korean Americans: Before and After the Los Angeles Riots*, 19 AMERASIA J. 23, 46 (1993) ("[S]earching for the one thread of commonality that can promote positive communication and good will among all people."); Armando Navarro, *The South Central Los Angeles Eruption: A Latino Perspective*, 19 AMERASIA J. 69, 83 (1993) ("Latinos must also participate in the formation of multiethnic/racial coalitions which are predicated on the inclusion of all groups and segments who share a common interest in the rebuilding of SCLA and Los Angeles."); Rodney E. Hero, *Multiracial Coalitions in City Elections Involving Minority Candidates*, 25 URB. AFF. Q. 342, 349 (1989) (noting that some political observers assume that shared political concerns will bring blacks and Hispanics together as "likely allies in urban politics").

6. *See, e.g.*, Michael C. Thornton & Robert J. Taylor, *Intergroup Attitudes: Black American Perceptions of Asian Americans*, 11 ETHNIC & RACIAL STUD. 474 (1988) (addressing "escalating antipathy" between "blacks and Asian Americans" and suggesting "a better understanding of how these two populations [now] view each other"); S. M. Miller, *Coalition Etiquette: Ground Rules For Building Unity*, 14 SOC. POL. 47 (1983) (suggesting codes of behavior to foster inter-group understanding to aid in coalition-building); Kenneth J. Meier, *Cooperation and Conflict in Multiracial School Districts*, 53 J. OF POL. 1123 (1991) (applying social distance theory to groups to determine whether groups are likely to cooperate or compete). *See generally*, R. Radhakrishnan, *Culture as Common Ground: Ethnicity and Beyond*, 14 MELUS 5 (1987).

7. Lisa C. Ikemoto, *Traces of the Master Narrative in the Story of African American/Korean American Conflict: How We Constructed "Los Angeles"*, 66 S. CAL. L. REV. 1581, 1584 (1993) (revealing the "master narrative of white supremacy" in the construction of racial conflict); Reginald L. Robinson, *"The Other Against Itself": Deconstructing the Violent Discourse Between Korean and African Americans*, 67 S. CAL. L. REV. 15, 28-31 (1993) (describing monopoly capitalism and the narrative of "white America and its social institutions. . .that African Americans are less valued, less worthy, and less human" as integral to the "violent discourse" between Koreans and African Americans). *Cf.* Mari J. Matsuda, *Beside My Sister, Facing the Enemy: Legal Theory Out of Coalition*, 43 STAN. L. REV. 1183 (1991) (historicizing gender and race as part of coalition-building); Trask, *Coalition-Building, supra* note 2 (historicizing Native Hawaiian relations with Anglo Americans and Asian Americans to illuminate difficulties of coalition-building).

8. I use "interracial" here narrowly, to denote relations among groups of color. I also use "racial group" to denote a group of color. In doing so, I acknowledge the social construction of racial categories, *see infra* notes 25, 62, 66, and 93, and the significance of white as a racial category. *See infra* note 110. Concerning the concept of subordination, I draw upon Mari Matsuda's description of "predictable patterns" of subordination or oppression:

  All forms of oppression involve taking a trait, X, which often carries with it a cultural meaning, and using X to make some group the "other" and to reduce their entitlements and power.
  All forms of oppression benefit someone, and sometimes both sides of a relationship of domination will have some stake in its maintenance.
  All forms of oppression have both material and ideological dimensions. . . .
  All forms of oppression implicate a psychology of subordination that involves elements of sexual fear, need to control, hatred of self and hatred of others.

Matsuda, *supra* note 7, at 1188-89. Anti-subordination as a principle addresses oppression. It has an oppositional component (undermining group oppression) and an affirmative component (extending notions of equality to relational hierarchies). Professor Matsuda observes the significance of coalitional work in generating anti-subordination principles, suggesting that "[t]hrough our sometimes painful work in coalition we are beginning to form a theory of subordination; a theory that describes it, explains it, and gives us the tools to end it." *Id.* at 1188.

sion is conceptual. As developed later, it involves a recognition of situated racial group power, and consequently constrained yet meaningful group agency in addition to corresponding group responsibility. The second dimension is practical. It involves messy, shifting, continual and often localized processes of interracial healing.

I assert that this multidimensional concept of interracial justice is, in many instances, an integral, although often overlooked component of peaceable relations and coalition-building among racial minorities. Development of the concept is especially meaningful for that reason. It is also meaningful for four related theoretical reasons.

First, the concept of interracial justice starts with, and then moves beyond, legally defined notions of racial justice. For many racial groups legal doctrine and court process at the turn of the century increasingly reflect a confined vision of racial justice, a vision of law dissociated from the concrete realities of continuing racial subordination of nonwhite groups. In the mid-1990s, the United States Supreme Court jettisoned liberal legal doctrines in favor of overtly conservative ones, particularly in the area of race. Within a two week period in 1995, by a five to four majority, the Court effectively dismantled federal race-based affirmative action programs,[9] invalidated Voting Rights Act redistricting plans that purposely created majority African American districts,[10] and approved the Ku Klux Klan's right to erect a cross in a public park during Christmas.[11] These decisions followed another that had the practical effect of ending a school racial desegregation effort.[12] The 1995 decisions built upon other court rulings from 1988 through 1993 that sharply limited claims by people of color for racial harassment and workplace discrimination[13] while expanding discrimination claims by whites.[14] Most significant, a majority of the Court for the first time effectively embraced colorblindness as constitutional principle without differentiating "between a policy that is designed to perpetuate a caste system and one that seeks to eradicate racial subordination."[15] As one commentator observed, the problem for many racial minorities with such an approach to racial justice in contemporary America is that it "legitimates, and thereby maintains, the social, economic and political advantages whites hold over other Americans."[16]

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9. Adarand Constructors, Inc. v. Pena, 115 S.Ct. 2097 (1995).

10. Miller v. Johnson, 115 S.Ct. 2475 (1995).

11. Capitol Square Review and Advisory Board v. Pinette, 115 S.Ct. 2440 (1995).

12. Missouri v. Jenkins, 63 U.S.L.W. 3883 (1995).

13. *See* Watson v. Fort Worth Bank & Trust, 487 U.S. 977 (1988) (employers are not obligated under Title VII to eliminate racial imbalances in the workplace not directly attributable to discrimination); Patterson v. McLean Credit Union, 491 U.S. 164 (1989) (section 1981 of the 1867 Civil Rights Act does not prohibit racial harassment after the employment relationship begins); Wards Cove Packing Co. v. Antonio, 490 U.S. 642 (1989) (Title VII "disparate impact" claims are not established by mere proof of racial imbalance); St. Mary's Honor Center v. Hicks, 113 S. Ct. 2742 (1993) (elevating proof requirements for Title VII discrimination claims). Aspects of Patterson and Wards Cove were rejected by Congress through the 1991 Civil Rights Act, Pub. L. No.102-166, section 2, 105 Stat. 1071 (1991); see Jerome M. Culp, Jr., *Neutrality, the Race Question and the 1991 Civil Rights Act: The "Impossibility" of Permanent Reform*, 45 RUTGERS L. REV. 965 (1993).

14. *See* City of Richmond v. J.A. Croson Co., 488 U.S. 469 (1989) (invalidating a construction minority set-aside ordinance and subjecting state affirmative action programs to the strict judicial scrutiny); Shaw v. Reno, 113 S. Ct. 2816 (1993) (invalidating state voter redistricting plan that purposely created two African American majority districts).

15. Adarand, 115 S.Ct. at 4535 (Stevens, J., dissenting).

16. Neil Gotanda, *A Critique of 'Our Constitution is Color-Blind,'* 44 STAN. L. REV. 1, 2-3 (1991).

For many racial minorities this increasingly dissociated legal vision of racial justice reflects what some have termed the "post-civil rights" era in America—both the end of the civil rights movements of the 1960s and 1970s and the ideological dismantling of civil rights approaches to racial justice.[17] Law and court process in this era are perceived in contradictory ways—sometimes as integral components of social-political struggles against racial subordination and more often as legitimators of the racial status quo.[18] Interracial justice acknowledges these dynamics of post-civil rights America and therefore is both pragmatic and multidisciplinary in approach. Operating from the vantage points of racial groups, it starts with legal principles of equality, "fairplay and substantial justice"[19] and draws upon a recognition of an antisubjugation principle of constitutional law.[20] In light of the law's limitations, however, interracial justice also draws upon a variety of other disciplines that might make a material difference to inter-group healing.[21]

Second, as I frame it, the concept of interracial justice historicizes and particularizes contemporary interracial conflict and healing. It thereby avoids highly abstract universalized notions of justice. It means understanding how racial groups have been "differentially racialized"[22] over time and place, how differential racialization has contributed to differing status and power among those groups, and how current manifestations of these differences contribute to inter-group conflicts. Interracial justice also means endeavoring by law and other means to address specific conflicts by redressing the continuing effects of past harms and by rearticulating inter-group differences and identities as predicates to "getting along" and to coalitional action.[23]

Third, the concept of interracial justice decenters "whiteness" as the referent for determining racial group identities and relations. While acknowledging "traces of the master narrative" of white institutional power in all race relations, it expands racial justice inquiry into the realm of interracial relations.[24] It recognizes that racial groups serve as complex, dynamic referents for one another. By suggesting that Asian American identity and racial justice for Asian Americans are determined in

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17. *See* Eric K. Yamamoto et al., *Courts and the Cultural Performance: Native Hawaiians' Uncertain Federal and State Law Rights to Sue,* 16 U. HAWAII. L. REV. 1 (1994) (describing views of law and justice in post-civil rights America).

18. *Id.* at 25.

19. *See generally* Int'l Shoe, Co. v. State of Wash. Office of Unemployment, Compensation and Placement, 326 U.S. 310 (1945) (linking the Due Process Clause to "notions of fairplay and substantial justice").

20. *See* LAURENCE H. TRIBE, AMERICAN CONSTITUTIONAL LAW (2d ed. 1988); Owen M. Fiss, *Groups and the Equal Protection Clause,* 5 PHIL. & PUB. AFF. 107, 108 (1976) (locating an anti-"group-disadvantaging" principle in the 14th Amendment's Equal Protection Clause).

21. *See infra* Section IIID.

22. *See infra* notes 165-66 and accompanying text discussing "differential racialization."

23. Where contemporary inter-group relations are characterized generally by power and status imbalances, the question arises: what kinds of understandings about the effects of historical group interactions will be essential to rearranging group boundaries and re-articulating group identities in concrete, localized situations? *See* MICHAEL OMI & HOWARD WINANT, RACIAL FORMATION IN THE UNITED STATES (2d ed. 1994) (historicizing current processes of racial group formation). On the importance of historicizing coalitional relationships, see generally Sharon Parker, *Understanding Coalition,* 43 STAN. L. REV. 1193, 1196 (1991) ("As we seek to work together across racial/ethnic differences, we stand a better chance. . .if we understand the dynamics of 'coming together. . . .When we reach into our herstorical selves, we will discover together that our common past requires a balance among all parts for us to create a common future"); Trask, *supra* note 2, at 1209 ("The general ignorance on the part of haole [whites] about where they are geopolitically (on stolen Hawaiian land) and who they are (foreigners) creates deep-seated tensions in a coalition with Hawaiians.").

24. *See infra* Section IIB.

part by constantly changing relations with other nonwhite groups, including indige-
nous peoples, this concept expands the traditional bi-polar white/black model of
race relations.

Fourth, the concept of interracial justice clears space for fresh examination of
complex power relations among racial groups amid changing racial demographics.[25]
For example, many Native Hawaiians now view themselves as a politically subju-
gated group with particularized claims to homelands and self-governance rather than
as a racial minority. They view Asian Americans as outsiders not because Asian
Americans are "foreigners" but because Asian Americans are deemed opportunistic
"settlers" following white colonizers onto native soil.[26] In reality, this settler/native
picture muddies—under white oligarchical control, Asian Americans in Hawai'i suf-
fered overt discrimination and violence;[27] many Native Hawaiians have at least par-
tially accepted Western institutional structures and values;[28] many Asian Americans
and Native Hawaiians have intermarried. Nevertheless, the image of Asian Ameri-
cans as opportunistic followers of white colonizers still holds for many Native
Hawaiians.

Exploring complex historical and contemporary Asian American and Native
Hawaiian relations in this light encourages further inquiry into ways in which his-
torically white structures and strategies of socio-economic control are, or appear to
be, situationally redeployed among racial groups.[29] It also encourages inquiry into
how through law and other systemic structures differing racial meanings are created
and attached to various racial groups, implicating hierarchical status and power
among those groups.

In sum, there are four theoretical reasons for developing the concept of interra-
cial justice: starting with but moving beyond legal notions of justice; historicizing
and particularizing interracial conflict and healing; decentering whiteness; and
freshly examining interracial relations amid changing racial demographics. Taken
together, these theoretical reasons, or ideas, deepen frameworks for understanding

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25. *See generally* Robert S. Chang, *Toward an Asian American Legal Scholarship: Critical Race Theory,
Post-Structuralism, and Narrative Space,* 81 CAL. L. REV. 1243 (1993). In using the term "Asian American," I
recognize that there is no essential Asian American identity and no singular Asian American group. *See infra*
note 66. "Asian American," through political processes in the late 1960s and early 1970s, became a legally
recognized racial category, aggregating separate groups with differing countries of origin and cultures. *See*
YEN L. ESPIRITU, ASIAN AMERICAN PAN-ETHNICITY: BRIDGING INSTITUTIONS AND ETHNICITIES (1992)
(describing the political foundations of the Asian American racial category). With this understanding of
Asian American heterogeneity, discussed further in Section II, Asian American can be a meaningful category
for discussing racial identities and inter-group relations. It is not only a legally recognized racial category,
with distributional and political consequences, it is also a category onto which other groups have inscribed
particular meanings, such as "foreigner," which impact upon the diverse subgroupings of people encompassed
by the category. *Id.*

26. Trask, *supra* note 2, at 1210 ("No settlers in Hawai'i, including Asians and haole [white], desire
Hawaiian sovereignty as a goal since it would take land and revenues for exclusive Hawaiian use.").

27. *See* GARY Y. OKIHIRO, CANE FIRES: THE ANTI-JAPANESE MOVEMENT IN HAWAII, 1865-1945
(1991). *See also infra* note 142 (describing how same Hawaiians in Honolulu supported elections of leaders
of the white oligarchy and received government patronage positions in return, participating in the purposeful
exclusion of Asians from governmental positions and social organizations).

28. *See* Luciano Minerbi, Davianna MacGregor, & Jon Matsuoka, *Native Hawaiian and Local Cultural
Assessment Project* 20 (Report to Haw. State Dep't of Health, June 1993) ("Many [Native Hawaiians] actively
assimilated and participated in western political, social and economic activities. Others chose to stand firm,
and resist change.").

29. *See infra* Section III for discussion of redeployment of structures and strategies of control. *See also*
LAWRENCE H. FUCHS, HAWAII PONO: A SOCIAL HISTORY (1961) (describing the "Big Five" white-con-
trolled plantation-based businesses that from 1900 to the 1950s exercised oligarchical control over almost all
aspects of public life in Hawai'i, including the economy, land use, politics and law).

the reformation of racial group identities and inter-group power relations where groups seek to "dismantl[e]. . .a system in which one culture dominates another. . .[and] to provide for a new order that does not reproduce the social structure of the old system."[30] I suggest that interracial justice, reflecting these ideas, illuminates those frameworks by reclaiming from both "neoconservative" ethnicity theories[31] and nationalism/colonialism theories[32] the notions of racial group agency, in terms of power, and racial group responsibility, in terms of ethics.[33] Rather than blaming racial groups for failure to assimilate into the American mainstream,[34] as neoconservative theories tend to do,[35] or blaming white-controlled institutions for all racial ills, as do some nationalism/colonialism theories,[36] the interracial justice concept locates racial group agency and responsibility within the tension between continuing group subordination and emerging group power. It posits that amid social structural shifts, racial groups may be, in varying ways, simultaneously privileged and oppressed, empowered and disempowered, uplifting and subordinating. It means understanding the influences of dominant, mostly white institutions in the construction of interracial conflicts.[37] It also means understanding ways in which racial groups contribute to and are responsible for the construction of their own identities and sometimes oppressive inter-group relations. It thus acknowledges situated or constrained racial group agency and responsibility.[38]

Section II of this Article grounds the discussion of the theoretical underpinnings of interracial justice. It examines Asian American groups' proposed apology to Native Hawaiians and accompanying redress for possible historical Asian American complicity in the subordination of Hawai'i's indigenous peoples. Section III builds on this examination of the particulars of interracial justice to develop the ideas of constrained racial group agency and corresponding responsibility and to sketch supporting postcolonial and racialization theories. Section IV offers a preliminary view of group healing. By briefly scanning healing approaches rooted in law, theology, social psychology, political theory and indigenous practices, it lays a beginning foundation for further inquiry into how interracial healing and reconciliation might by conceived as components of interracial justice.

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30. Lisa Lowe, *Heterogeneity, Hybridity, Multiplicity: Marking Asian American Differences*, 1 DIASPORA 24, 28 (1991) (presenting Frantz Fanon's argument).

31. *See* OMI & WINANT, *supra* note 23, at 70 (describing "neoconservative" ethnicity theory's linkage of social-economic success to an ethnic group's values and norms, thereby blaming subordinated groups for their situation and preserving social structural status quo).

32. *See id.* at 108-111 (describing nationalism theory's tendency to interpret racial ills in terms of a dominant, super-imposed white culture).

33. *See infra* notes 150-54 addressing the concept of agency in group relations. *See also* Ian F. Haney-Lopez, *The Social Construction of Race: Some Observations on Illusion, Fabrication, and Choice*, 29 HARV. C.R.-C.L. L. REV. 1 (1994) (describing choice as an aspect of racial identity construction); CORNEL WEST, RACE MATTERS (1993) (explaining the ethical principle of non-subordination in inter-group relations).

34. "Mainstream America" is in many respects mythic. The United States is comprised of diverse groups in terms of race, culture, class, religion, locale, age, gender, among other things. *See generally* HERBERT J. GANS, URBAN VILLAGERS (1962) (focusing on the "Italian-American" urban village/jungle of the West End). Yet for purposes of general discussion it is useful to apply the "mainstream American" label to describe what others have described as "middle America"—people, and the institutions they embody, who are predominantly Anglo American, Christian, and middle class.

35. *See* OMI & WINANT, *supra* note 23, at 70 (The neoconservative perspective tends "to rationalize racial injustice as a supposedly natural outcome of group attributes in competition.").

36. *Id.* at 109.

37. *See generally* Haney-Lopez, *supra* note 33; Ikemoto, *supra* note 7; Robinson, *supra* note 7; Gotanda, *supra* note 16, 44 STAN. L. REV. 1 (1991).

38. *See infra* notes 150-54 and accompanying text.

The concluding section addresses generally the national import of Hawai'i ra-
cial demographics and dynamics—why interracial justice issues for Asian Americans
and Native Hawaiians are meaningful to all racial groups in America. That section
also identifies ways in which this Article's discussion of racial group agency and
responsibility, and interracial conflict, might be reproduced out of context and
thereby misappropriated. Professor Frank Wu acknowledges the imperative of ad-
dressing interracial conflicts.[39] He cautions, however, about the "opportunistic as-
pects" of scrutiny of interracial relations.[40] The "attention given to this so-called
'black vs. brown vs. yellow' phenomenon allows whites to say, 'Look, they're racists,
too," without seriously examining continuing white responsibility for systemic racial
oppression.[41] The concluding section thus discusses potential misappropriation and
offers precautionary measures and reasons for proceeding with the discussion even in
light of the risks.

II. ASIAN AMERICANS AND NATIVE HAWAIIANS: APOLOGY AND REDRESS

In summer 1993 Asian American groups called for an Asian American apology
to Native Hawaiians and for multimillion dollar reparations. Those Asian American
groups represented churches within the Hawai'i Conference of the United Church
of Christ. Their call for redress by Asian Americans for wrongs committed against
Native Hawaiians, offered as a resolution at the Hawai'i Conference's 171st Aha
Pae'aina (annual meeting),[42] complemented another pending resolution of apology
on behalf of the entire multiracial Conference[43] for the participation of white mis-
sionary predecessors in the 1893 overthrow of the Hawaiian monarchy.[44]

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39. Frank Wu, *Facing Our Allies*, ASIAN WEEK, Aug. 18, 1995, at 4.

40. *Id.*

41. *Id.*

42. Motion 5 of the 171st annual meeting of the Hawai'i Conference of the United Church of Christ:
"A Vision of a New Day: Promoting Solidarity and Reconciliation through an Act of Apology by the 171st
Aha Pae'aina, Directing a Public Apology to be Made on Its Behalf, and Directing Redress by the Hawai'i
Conference of the United Church of Christ" [hereinafter *Asian American Resolution*], *in* HO'O LOKAHI,
171ST AHA PAE'AINA, June 15-19, 1993, Hawai'i Conference United Church of Christ, at 81 (on file with
author).

43. The Hawai'i Conference of the United Church of Christ is multi-racial in several respects. Congre-
gation members of churches in the Conference reflect a diversity of races. In addition, several individual
churches identify themselves as predominantly of a particular race and culture. Those race/culture-churches
encompass Japanese/Japanese American, Filipino-American, Chinese American, Korean American, Samoan
American, Native Hawaiian, among others. Other churches are predominantly white in membership. Inter-
view with Reverend Dr. Wallace Ryan-Kuroiwa, Senior Pastor, Nuuanu Congregational Church, in Hono-
lulu, Haw. (Oct. 7, 1994).

The Asian American groups that coalesced into a looseknit coalition to generate and propose the apol-
ogy and reparations resolution included clergy representatives from several Chinese and Japanese American
churches and one clergy representative from a Filipino-American church.

44. Motion 1 of the 171st annual meeting of the Hawai'i Conference of the United Church of Christ:
"Promoting Reconciliation By An Apology To Native Hawaiians," *in* HO'O LOKAHI, *supra* note 42. This
motion of apology by the Hawai'i Conference, as amended, was passed by the Conference. Motion 5, the
apology/redress motion proposed by the Asian American Churches, was debated by the Conference but not
voted upon in light of the passage of Motion 1. Concerning other related apologies, the national board of the
United Church of Christ a year earlier passed a resolution of apology to Native Hawaiians for the denomina-
tion's influence over and indirect participation in the overthrow of the Hawaiian monarchy. That apology
was delivered by Paul Sherry, President of the United Church of Christ on January 17, 1993, the one hun-
dredth anniversary of the overthrow. *An Apology To Indigenous Hawaiian People*, 15 NEW CONVERSATIONS 5
(spr. 1993). In addition, in 1993 the United States Congress passed a joint resolution apologizing for the
United States' wrongful participation in the destruction of the sovereign Hawaiian nation. S.J. Res. 19, 103d
Cong., 1st Sess., 107 Stat. 1510 (1993).

In their resolution, the Asian American groups recalled Asian disapproval of the dethroning of Queen Liliuokalani in 1893 by white business and religious leaders supported by United States officials and an American warship.[45] They also acknowledged "a certain bond" between Hawaiians and Asians during the first half of this century as social-economic-political outsiders in white oligarchically controlled Hawai'i.[46] They also addressed 100 years of oftentimes oppressive group interactions—confessing that "we as Asians have benefitted socially and economically by the illegal overthrow" of the sovereign Hawaiian government and that "[m]any Asian Americans have benefitted while disregarding the destruction of Native Hawaiian culture and the struggles of Na Kanaka Maoli."[47]

The Asian American groups then addressed current relationships arising out of those historical interactions—"a particular dynamic. . .between Native Hawaiians and Asian Americans, rooted in mutual misunderstanding and mistrust," resulting in the "use of stereotypes and caricatures to demean and dehumanize" and giving rise to the persistence of "racist attitudes and actions."[48] Finally, while acknowledging perceptual and interpretive ambiguity as to "motives, results, characterizations, and causes of the events [surrounding the overthrow]," the Asian American groups focused on "the anguish of our Native Hawaiian sisters and brothers" within and beyond the Conference and sought to begin a "process of repentance, redress and reconciliation," offering "our support to their struggle for justice."[49]

From one vantage point, by proposing an apology and reparations, those Asian American groups were seeking to live out religious beliefs about "peace and justice."[50] From another vantage point, they were seeking to alter Asian American relationships with Hawai'i's indigenous people by addressing racial status and position and "how structures and strategies of domination created under colonialism are transferred and redeployed by the formerly colonized."[51] From both vantage points, the Asian American groups were employing theology and law to rearticulate racial identities relationally and thereby to build bridges between groups. They were endeavoring to address perceived injustice, historical and contemporary, arising out of relations between two racial groups as a foundation for contributing to social structural change in Hawai'i. In effect, they were attempting to give new meaning to the legally constructed, internally dissonant racial category of "Asian Pacific American."[52]

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45. *Asian American Resolution, supra* note 42, at 81. *See also* Andrew Walsh, *Congregational Influences in Hawai'i (1820-1893),* (1993) (prepared for the president of the United Church of Christ) (on file with author).

46. *Asian American Resolution, supra* note 42, at 81.

47. *Id.* at 82.

48. *Id.* at 81-82.

49. *Id.* at 82.

50. The United Church of Christ is a Christian denomination that adopts as part of its theology a commitment to peace and justice. Interview Ryan-Kuriowa, *supra* note 43.

51. Jeff Chang, *Lessons of Tolerance: Rethinking Race Relations, Ethnicity and the Local Through Affirmative Action in Hawai'i* 1 (1994) [hereinafter *Rethinking Race*] (paper presented at Association for Asian American Studies Conference) (on file with author). *See infra* section IIIB and C.

52. Office of Management and Budget, Directive No. 15, "Race and Ethnic Standards for Federal Statistics and Administrative Reporting," 43 Fed. Reg. 19,260, 19,269 (May 4, 1978) [hereinafter *OMB Directive No. 15*]. *OMB Directive No. 15* creates four racial categories (American Indian or Alaskan native, Asian or Pacific Islander, Black, and White) and one ethnic category (Hispanic). The Asian or Pacific Islander category includes "A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa." *See* Lawrence Wright, *One Drop of Blood,* THE NEW YORKER, July 25, 1994, at 46.

Clergy representing those self-described "Asian American" churches within the Hawai'i Conference asked me to review a draft of the resolution and provide legal advice about redress and reparations. I was asked to participate in the coalition of Asian American churches because of my past work as a member of the Korematsu legal team that litigated *coram nobis* proceeding reopening *Korematsu v. United States*[53] concerning the constitutionality of the internment of Japanese Americans during World War II. I was also asked to participate because of my work for Asian American and Native Hawaiian organizations on interracial justice issues, including Asian American support for the Native Hawaiian sovereignty movement.[54] During my discussions with clergy and another attorney about the draft of the resolution, legal concepts (the resolution speaks of the "demands of the law," "illegal over-throw," "due process," "restitution," "reparations," "justice") as well as theology surfaced regularly.[55]

Anonymous hate phone calls and heated debate in several other largely Asian American churches preceded formal presentation of the finished resolution to all 120 churches at the Conference's Aha Pae'aina. The resolution's attempt to cast reconciliation in terms of relations between Asian Americans, as encompassing a group, and Native Hawaiians met immediate challenge. Ministers and congregations contested any unified meaning of Asian American. One congregation comprised primarily of fourth and fifth generation Chinese Americans was outraged by the resolution, finding it both demeaning of Hawai'i's Chinese Americans and lacking in moral ("I didn't do anything wrong") and legal ("what right do they have") justification.[56] The largely Korean American churches tended to express indifference, hinting that any responsibility for complicity in the white-controlled oppression of Native Hawaiians in the first half of the century lay with Japanese and Chinese Americans. The Samoan American churches stood silent, leaving unexpressed feelings of present-day discrimination against Samoans by others, including some Native Hawaiians.[57] Clergy of the self-identified Hawaiian churches in the Conference and congregation members, most of whom were of some combination of Hawaiian, Asian and white ancestry, expressed wide-ranging views about the significance of, and indeed need for, an apology and redress from the Conference gen-

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53. 323 U.S. 214 (1944).

54. *See* Eric K. Yamamoto, *Friend, or Foe or Something Else: Social Meanings of Redress and Reparations,* 20 DENV. J. INT'L. L. & POL'Y. 223 (1992) [hereinafter *Redress*]; Eric K. Yamamoto, *Korematsu Revisited: Correcting the Injustice of Extraordinary Government Excess and Lax Judicial Review—Time for a Better Accommodation of National Security Concerns and Civil Liberties,* 26 SANTA CLARA L. REV. 1 (1986). I identify myself as Asian American, third-generation Japanese American (or Sansei) and "local" to Hawai'i (see infra Section III concerning "local" identity). My concern about and inquiry into often strained Asian American and Native Hawaiian relations began as an undergraduate. *See* Eric K. Yamamoto, *From 'Japanee' to Local: Community Change and the Redefinition of Sansei Identity in Hawai'i* (1974) [hereinafter *Redefinition of Sansei Identity*] (on file at Hamilton Library, Hawaiian-Pacific Collection, University of Hawai'i, Manoa). I currently provide legal consultation on selected issues to the Japanese American Citizens League, Hawai'i Chapter, including support for the burgeoning Native Hawaiian sovereignty movement, and serve as senior legal advisor to the Native Hawaiian Advisory Council, a Native Hawaiian water law advocacy organization.

55. *Asian American Resolution, supra* note 42 at 82 (blending legal concepts with theological concepts of reconciliation, contrition and repentance). Professor Peter Kwan, in commenting on a draft of this Article, observed that the clergy's resort to Western legal concepts and remedies, with my support and guidance, inadvertently may have redeployed an institutional structure that contributed to the subordination of Native Hawaiians. *See infra* Section IIIB concerning the redeployment of oppressive structures by groups with emergent power.

56. Interview Ryan-Kuroiwa, *supra* note 43.

57. *Id.*

erally and Asian American churches specifically.[58] Others observed that mixed ancestry drew nebulous lines between "Hawaiians" entitled and not entitled to benefit from reparations.[59]

Thus even before formal testimony on the resolution at the 171st Aha Pae'aina, a conflictual, shifting picture of Asian American identity emerged. Asian Americanness itself fractured into various amorphous, dissonant subparts. Moreover, Asian Americans were conceived of as racially distinct from Native Hawaiians. Yet, many Native Hawaiians were of mixed ancestry and Hawaiianness depended on self-identification with part of one's ancestry (indigenous people of Hawai'i) and self-negation of another part (usually Asian or white or other Pacific Islander).

In this setting the legally constructed "Asian Pacific American" racial category, which is employed by the United States Census and used by various government bodies and community groups, proved largely incoherent.[60] Indeed, the Asian American groups sponsoring the apology/redress resolution rejected use of the category for two apparent reasons. First, by lumping together, or essentializing, vastly different Asian groups and linking them racially to Pacific Island groups, the category obliterated significant differential identifiers—immigrant status, culture, class, gender, locale.[61] It provided no structure for understanding group identity or subgroup dynamics, for ascertaining the formation of racial meanings, or for guiding coalitional efforts. Second, and most important, the singular racial category obscured the complex, historically-situated, contemporary interactions between Hawai'i's indigenous peoples, who have been struggling with forms of colonization or neo-colonization over the last one hundred fifty years, and Asian Americans who themselves or through their ancestors emigrated to Hawai'i under harsh conditions as part of the colonization process.[62]

The passionate testimony of an eighty-year old Chinese American minister, formerly of a Hawaiian church on Oahu, further revealed the complexity of the

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58. Reverend Richard Kamanu, Transcript of Proceedings, Aha Pae'aina, June 19, 1993, Hawai'i Conference United Church of Christ, [hereinafter "Proceedings"] at 3 (on file with author) ("And it is known that even among our Hawai'i[an] churches, there were some of us who struggled with the words of apology."); Reverend David Kaupu, Proceedings, *supra* at 5 ("The issue is justice. We all acknowledge. . .that an unjust act happened to us. . . . [T]he only way that we're going to be able to appease ourselves towards that unjust act is to apoligize [sic] for it."); Piki Carras, Proceedings, *supra* at 5 ("There was one Hawaiian minister in our group [who said] 'I don't know about this apology business. We Hawaiians (and he was talking about the Hawaiian congregation) do not really want to take this apology.'"); Teva Beatty, Proceedings, *supra* at 11 ("I'm representing the youth. . . . Why can't everyone swallow their pride and apoligize [sic] as a body of the UCC instead of as Chinese, Koreans, Filipinos [etc.]?").

59. Carras, Proceedings, *supra* note 58, at 5.

60. Native Hawaiians have challenged their inclusion in the "Asian/Pacific Islander" category of *OMB Directive No. 15, supra* note 52. Native Hawaiians would prefer to be categorized as an indigenous people under the American Indians/Alaskan native category. *See* Wright, *supra* note 52, at 47 ("Senator Daniel K. Akaka, a native Hawaiian, urged that his people be moved from the Asian or Pacific Islander box to the American Indian or Alaskan native box. 'There is a misperception that native Hawaiians, who number well over two hundred thousand, somehow 'immigrated' to the United States like other Asian or Pacific Island groups'.").

61. Pat Chew, *Asian Americans: The "Reticent" Minority and Their Paradoxes*, 36 WM. & MARY L. REV. 1, 26 (1994) ("At the very least, three factors—country of origin, length of residence in the United States, and gender—create a three-dimensional matrix which complicates any attempt to classify Asian Americans as a monolithic group.").

62. The essentializing effect of this legally recognized racial category raises the following question: through what ideology, and with what social impacts, does law sometimes contribute to the construction of racial categories that obscure vast historical and contemporary intra-group differences, compressing modes of oppression, culture, generation, gender, class and locale into race. This question is addressed generally in Section III of this Article, laying the foundation for further development.

inter-group issues raised by the apology/redress resolution. Reverend Richard Wong, by a letter presented at the Aha Pae'aina, opposed the resolution in part because the term "Asian-American" in the resolution encompassed Chinese Americans who he felt were not legally or morally culpable.[63]

> As an Asian/Chinese, we Chinese look back at our [relations] with Native Hawaiians. We feel that we have not exploited nor dehumanized them. But in fact, we have accepted them enough to marry them. Today, the so-called "Hawaiian name"—Apaka, Ahuna, Achiro, and so on are unions of Chinese in Hawaii. . . .Please do not clump Chinese with other Asian-Americans who may have taken advantage of these Oahuans [Hawaiians on Oahu]. Secondly, if the Asian-Americans fear they have deeply denied Native Hawaiians, they should offer their own apology [and reparations].[64]

Reverend Wong's short testimonial garnered considerable attention. Clergy and laity of the Hawai'i Conference held him in high regard. He had revived a historically important, struggling church, identified as "Hawaiian", through dedicated work while handling latent interracial tensions.[65] He delivered his view on the apology resolution through a proxy because of a lingering illness. Reverend Wong's testimony raised a host of complex interracial justice issues concerning the contested nature of Asian American identity and the situated nature of racial group agency and responsibility. These issues are addressed in the following section.

III.   AGENCY, RESPONSIBILITY AND INTERRACIAL JUSTICE

A.   *Identity and Justice*

By identifying himself as "Asian/Chinese" and by objecting to the "clumping" of "Chinese with other Asian-Americans," Reverend Wong's testimony raised the issue of pan-racialization:[66] Is Asian American (even leaving out Pacific Islanders for the moment) a homogenous racial category? If not, is it nevertheless a meaningful category? In what situations? These questions about Asian American as a racial category give rise to questions about the category's shifting borders: under what circumstances do individuals faced with justice issues shift between pan-racial and ethnic identities? how do differences concerning history, culture, economics, gender, class, mixed ancestry, immigration status and locale contribute to malleable victim and perpetrator racial identities? how do unstable racial identities detract

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63. Dean Fujii (reading letter of Reverend Richard Wong), Proceedings, *supra* note 58 at 5 (on file with author).

64. *Id.* The transcript of Reverend Wong's letter, which was read into the record, contains the phrase "invasion with Native Hawaiians." My sense, from the context of the letter, is that the transcriber misheard the word "relations" and substituted "invasion." The quote in the text of this Article therefore substitutes "relations," within brackets.

65. Interview Reverend Ryan-Kuroiwa, *supra* note 43.

66. *See* Lowe, *supra* note 30, at 30 ("[E]ssentializing Asian American identity and suppressing our differences—of national origin, generation, gender, party, class—risks particular dangers: [for instance, it] inadvertently supports the racist discourse that constructs Asians as a homogeneous group, that implies we are 'all alike' and conform to 'types.'"). *See also* ESPIRITU, *supra* note 25. I use the term "pan-racialization" as the general equivalent of Professor Espiritu's term "pan-ethnicity." Espiritu uses Asian American "pan-ethnicity" to describe an over-arching Asian American ethnic identity constructed in the 1960s as a means for linking discrete Asian "ethnic/culture" groups, such as Japanese Americans, Filipino Americans, Chinese Americans and Korean Americans. *Id.* at 2-3, 12-18, 20. I use the term "pan-racialization" to describe the same phenomenon, but employ "race" rather than "ethnicity" because Asian American is now legally constructed as an encompassing racial category, *see* OMI & WINANT, supra note 23, and because prevailing ethnicity theory tends to misdescribe the experiences of immigrants of color.

from or provide opportunities for deeper understandings of interracial harms and group responsibility for healing?

Reverend Wong's testimony also raised the related identity issue of intra-racial group distancing.[67] His testimony referred to "Asian/Chinese" as "we" and "Asian-Americans" as "they" ("the Asian-Americans. . .they should offer their own apology"). By excluding we/Chinese from the broader category of they/Asian-Americans he appeared to concede forms of Asian American complicity in the oppression of Native Hawaiians while simultaneously distancing Chinese Americans from an identity as an oppressor.[68] Sometimes intra-racial group distancing flows from a desire to enlarge subgroup benefits;[69] sometimes to avoid subgroup blame.[70] Intra-group distancing in the context of group acknowledgment of partial legal or moral responsibility for oppression of others reveals the illusive internal boundaries of Asian American identity.[71]

Most important, Reverend Wong's testimony inverted the notion of Asian American foreignness.[72] Asian American foreignness often is contemplated in two related ways. At the level of global identity, the "Oriental" as objectified "Other" encompasses Asians in America.[73] Edward Said's notion of Orientalism explains the construction of alternatively exoticized or demonized West Asian "Orientals" as the oppositional predicate for the construction of subjectified, valorized white "Occidentals".[74] Stretching to include East Asia,[75] all Asians are "Orientals" and the foreign "Other" for mainstream America.

At the level of national identity, mainstream America tends to focus on Asian ancestry and morphology, perceptually lumping Japanese nationals, for example, with Americans of Japanese ancestry.[76] Whether considering economic competition

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67. Ikemoto, *supra* note 7, at 1594 (describing the author's initial reaction to the Los Angeles riots, as a Japanese American, in terms of racial distancing; she found it convenient to distance herself from the conflict in Los Angeles by interpreting the conflict as solely African American/Korean American, rather than African American/Asian American).

68. During the Los Angeles fires following the Rodney King police trial verdict, unidentified Chinese or Japanese store owners reportedly placed signs in their shop windows stating, "Not Korean," in a effort to avoid looting by what the storeowners apparently perceived to be African Americans angry at Korean store-owners. *Id.*

69. *See infra* Section III.

70. *See indra* Section III.B.

71. By indicating how Chinese Americans had sufficiently "accepted" Native Hawaiians to marry them, Reverend Wong's testimony also subtly revealed the intersection of race and gender. Most of the Hawaiian-Chinese inter-marriages in the late 1800s and early 1900s were between Chinese men and Hawaiian women. Few Chinese immigrant women lived in Hawai'i during those periods; thus, primarily Hawaiian women married Chinese men. "Acceptance enough," cast patriarchically in terms of Chinese willingness to marry Hawaiians, might be more appropriately recast as Hawaiian women's willingness to marry Chinese males who could not otherwise marry. *See* Kimberle Crenshaw, *Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,* 1989 U. CHI. LEGAL F. 139 (describing theory of intersectionality to encompass overlapping forms of oppression experienced simultaneously).

72. *See infra* Section III.B for a discussion of implications.

73. EDWARD SAID, ORIENTALISM 4-15, 201-11 (1978).

74. *Id.*

75. *See* COLIN MACKERRAS, WESTERN IMAGES OF CHINA 3 (1989) ("Although designed specifically as a critique of the Western study of West Asian civilizations, its main points are equally applicable to the study of China.").

76. Chew, *supra* note 61, at 34 ("Americans often think of Asian Americans as foreigners. Asian Americans' physical appearance and immigration history, in addition to societal perceptions, help explain Americans' impressions."). *See generally* Neil Gotanda, *Asian American Rights and the "Miss Saigon Syndrome",* ASIAN AMERICANS AND THE SUPREME COURT: A DOCUMENTARY HISTORY 1087 (Hyung-Chan Kim ed., 1992).

or redress for the World War II internment a shockingly large segment of white American society fails to distinguish between Japanese nationals and Japanese Americans.[77] The same is true for other Asian American subgroups. No such lack of discernment occurs for Irish nationals and Americans of Irish ancestry. The lumping of Asian Americans with Asian nationals folds Asian Americans into foreign nationals, making them non-American and therefore easier targets during economic or political hard times for other Americans' enmity and violence.[78]

Asian Americans have challenged global and national constructions of Asian Americans-as-foreigners. One cogent critique identifies definitional power in the construction of Asian American foreignness and endeavors to shift positional that power from mainstream public and private institutions to Asian American groups, creating space for Asian American self-definition and subjectivity.[79] Another related critique challenges white-produced versions of Asian American history and focuses on distinct Asian American contributions to America.[80] These critiques, which fill wide historical gaps, tend to emphasize the uniquely American, the non-foreign, in Asian American.

Common to these constructions of Asian American foreignness and to an extent their critiques is an often unstated referent. Asian Americanness is determined by the norms or perceptions of white mainstream America or Asian American resistance to those norms or perceptions.[81] Reverend Wong's testimony and the Asian American apology/redress resolution are illuminating, I suggest, because they moved these constructions and critiques to a different setting and inverted them. Speaking as an "Asian/Chinese" about the "denial of Native Hawaiians," Reverend Wong's statement subtly yet significantly moved Asian American foreignness beyond Anglo American perceptions of Asian Americans.[82]

This shift is subtle because it implicitly repositions Asian American foreignness within a framework that includes historical and contemporary Asian American interactions with other racial groups and particularly with America's indigenous peoples. The positional shift is significant because it decenters "whiteness" as the singular referent for determining racial group identities and relations. It expands racial formation and racial justice inquiries into the realm of interracial relations.[83]

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77. *See* U.S. COMMISSION ON CIVIL RIGHTS, CIVIL RIGHTS ISSUES FACING ASIAN AMERICANS IN THE 1990s (1992) (describing unemployed autoworkers' murder of Chinese American Vincent Chin in part resulting from their mistaken assumption that he was a Japanese national); Chew, *supra* note 61, at 37 (describing Jesse Helm's confusion of American citizens of Japanese ancestry and Japanese nationals when considering reparations legislation).

78. Chew, *supra* note 61, at 36 ("This perception of Asian Americans as foreigners and as adversaries also prompts some Americans to attribute acts by actual foreigners to Asian Americans").

79. *See, e.g.*, GARY OKIHIRO, MARGINS AND MAINSTREAMS—ASIANS IN AMERICAN HISTORY AND CULTURE (1994); SUCHENG CHAN, ASIAN AMERICANS: AN INTERPRETIVE HISTORY (1991); RONALD TAKAKI, STRANGERS FROM A DIFFERENT SHORE: A HISTORY OF ASIAN AMERICANS (1989).

80. *See, e.g.*, OKIHIRO, *supra* note 79; TAKAKI, *supra* note 79.

81. *See supra* note 34 discussing the term "mainstream America." *See generally* Cheryl Harris, *Whiteness As Property*, 106 HARV. L. REV. 1709 (1993) (describing "whiteness" as the primary referent in the construction of property rights).

82. Chang, *supra* note 51.

83. Ikemoto, *supra* note 7, at 1584 (describing the "master narrative of white supremacy" which sets up whiteness as the societal norm and which generates a hierarchy among racial groups dependent upon each group's proximity to whiteness).

In addition, the positional shift expands an emerging African American/Asian American/Latino framework for groups of color.[84] It constructs Asian Americanness in part from the perspective of indigenous peoples, America's first people who remain outsiders in America. From this outsider perspective, Asian Americans are sometimes viewed as late-coming settlers who have "made it," as foreign insiders— foreignness inverted.

Earlier, I argued that third generation Japanese Americans in Hawai'i self-identified as "local" rather than Japanese American.[85] They did so partially as a response to many indigenous Hawaiians' negative perceptions of Japanese, especially Japanese national businesses and second generation Japanese Americans. These perceptions were of Japanese and Haoles (whites) from the continental United States exercising inordinate control over the Hawai'i economy, state bureaucracy and private lands, much to the detriment of Hawaiian culture and the "aina," or native land.[86] These "foreigners" were perceived as having wrested insider control. Identifying with "local" situated young Japanese Americans alongside increasingly activist Native Hawaiians in terms of culture and community preservation and in terms of resistance to these perceived outsiders in control of the islands. Local identity thus reflected culture (appreciating the amalgam of cultures) and social structure (collective opposition to foreign control over development of the islands).[87]

Indeed, in the mid-1970s some Asian Americans and Native Hawaiians worked in coalition under the banner of "Palaka Power," or localism, to advance local interests through law.[88] They were instrumental in the enactment of several state statutes designed to lessen in-migration and outsider economic influence[89] and in the restructuring of the state constitution to recognize Native Hawaiian rights.[90] A recent study reveals that many Hawai'i Asian Americans continue to self-identify with their own subgroup (for example, Chinese American) and with local rather than Asian American. While subgroup or ethnic identity maintains ancestral-cultural attachments, local identity links Asian Americans with Native Hawaiians and other

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84. Arguments for expansion of the racial discourse framework beyond black and white usually emphasize the necessary addition of Latino and Asian American. The tendency toward a tri-partite color grouping excludes serious consideration of America's indigenous peoples and their unique legal, cultural and political claims concerning land, governance and identity.

85. Eric K. Yamamoto, *The Significance of "Local"*, 27 Soc. Process In Haw. 101 (1979) [hereinafter Yamamoto, *Local*]; Yamamoto, *Redefinition of Sansei Identity, supra* note 54.

86. Yamamoto, *Local, supra* note 85, at 106-12.

87. *Id.* at 105.

88. Michael Haas, Institutional Racism: The Case Of Hawaii 62-66 (1993). "Palaka" is a Hawaiian word describing the blue and white checkered print on work shirts worn by many Hawaiian workers. Primarily third and fourth generation Asian Americans and Native Hawaiians, many law trained, most with ties to the Democratic party and to the then Japanese American Governor, joined to protect what they perceived to be "local" interests.

89. *See id.* at 64-65 (describing state legislation, signed by then Japanese American governor George Ariyoshi, later declared unconstitutional by the federal courts, which among other things established residency requirements for welfare payments and state employment).

90. The 1978 state constitutional convention resulted in significant constitutional amendments. Several amendments for the first time explicitly recognized Native Hawaiian rights. One amendment established the Office of Hawaiian Affairs (OHA) and designated OHA as the trustee for Native Hawaiians to manage and use proceeds from the Ceded Lands trust established by the Federal Admissions Act. Another amendment recognized certain traditional and customary indigenous practices and accorded them status as legal rights. *See* Native Hawaiian Rights Handbook 18-20 (Melody MacKenzie ed., 1991) (describing constitutional amendments addressing Native Hawaiian interests).

groups. It does so by creating a collective culture and an oppositional Hawai'i-based identity rooted in resistance to increasing external socio-economic control.[91]

Despite the continuing appeal of an encompassing local identity for some Asian Americans and the success of past coalitional efforts, many Native Hawaiians now question if not reject collective identification symbolized by "local." They criticize the way local identity erases significant differences in history and current needs among racial groups and, more important, trivializes Native Hawaiians' unique cultural and legal claims to land and self-governance as indigenous peoples.[92] They assert that in crucial social and legal respects Native Hawaiians are different from Japanese, Chinese and Korean Americans and more recent immigrant groups. These Native Hawaiian criticisms of an essentialized local identity emphasize time (distinct histories), place (varying attachments to land), culture (disparate practices and values) and power (control of business, land, and government).[93] They implicitly reposition Asian Americans as foreign insiders. In doing so, they underscore the instability of a narrowly circumscribed Asian American identity. They also illustrate the decentering of whiteness. Whiteness, although of continuing significance, cannot be seen as the singular referent for determining racial identities or defining racial justice.

B. *Group Agency and Responsibility*

1. *Exploring Charges of Redeployment of Structures of Oppression*

As just discussed, many of Hawai'i's indigenous peoples, despite partial integration into American and Hawai'i social structures, now seek to reclaim land, resurrect culture and reconstruct meanings of Hawaiian "native."[94] Views of, and relations

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91. Jonathan Y. Okamura, *Why There Are No Asian Americans In Hawaii: The Continuing Significance of Local Identity*, 35 Soc. Process In Haw. 161, 162-63 (1994) (describing corporate-industry-based tourism and Japanese national real estate investment as key economic forces of external control and the emerging Hawaiian sovereignty movement as a significant new social force); Yamamoto, *Local, supra* note 85, at 106-11.

92. *See* Okamura, *supra* note 91, at 170; Haunani-Kay Trask, *Hawaiians, American Colonization and the Quest for Independence*, 31 Soc. Process In Haw. 101 (1984-85).

93. Haunani-Kay Trask, From A Native Daughter: Colonialism And Sovereignty In Hawaii 90 (1993). Professor Trask provides an apt description:

   The term "local" included both Hawaiian and non-Hawaiian long-time residents of Hawai'i. The residency rights of local people were thus framed in opposition to the development rights of property owners like the state, corporations, and private estates.

   But as the decade wore on, the assertion of indigenous Hawaiian rights as historically unique from the rights of immigrants to Hawai'i began to characterize more community struggles. Independent of their "local" supporters, Hawaiians protested spreading urbanization by occupying lands, or by resisting eviction. . . .Mass demonstrations, legal actions, and cultural assertions such as the construction of fishing villages became commonplace. As a group, Hawaiians pushed their demands to the front of the Movement. The rights of "locals" were not thereby opposed. But Hawaiians' historic and cultural claims to the land as the *first* and *original* claimants were increasingly seen, at least by Hawaiians, as primary.

Id.

94. *See* Alohilani Kuala, *A Native Hawaiian Basis for University Restructuring*, Restructuring For Ethnic Peace: A Public Debate At The University Of Hawaii 155, 156-57 (Majid Tehranian ed., 1991) [hereinafter Restructuring For Ethnic Peace] ("Hawaiians today are looking to our past for our path to the future. . . . Things have come full circle and Hawaiians will once again stand firm in who we are and stand proud. A time when Hawaiians may freely worship our ancestral gods, practice our once forbidden culture, speak in our native tongue, and live on our native soil."); Lilikala Kame'eleihiwa writes

   The repression of the Hawaiian language is but one of the legacies of American colonialism in Hawai'i; the others include incredible poverty for the Native people through dispossession of our lands. . . . Another. . .is the seed of self-doubt and self-hatred that was planted in our hearts. The seed was planted by Haole racists who degraded and disrespected everything Hawaiian, including

with, Asian Americans in Hawai'i are integral to the processes of reclamation, resurrection and reconstruction. From the vantage point of some Native Hawaiians, Asian Americans continue to be viewed as foreigners. This includes fourth and fifth generation Asian Americans. They are considered foreigners not because of a racialized linkage to Asian nationals, however. They are foreigners because, as the apology resolution describes, Asian Americans have "benefitted socially and economically by the illegal overthrow. . . .while disregarding the destruction of Native Hawaiian culture and the struggles of Na Kanaka Maoli."[95] More specifically, some and perhaps many Native Hawaiians consider present-day Asian Americans foreigners because they or their predecessors came from abroad and are now living, working and politicking on ground that belongs, or should belong, to indigenous people[96] and because as "settlers" they have not forged meaningful understandings of the historical harm to and current struggles of Native Hawaiians.[97] Asian Americans are considered unwanted or hostile foreigners by some because they have, or appeared to have, situationally redeployed colonialist structures of oppression.[98] Those multidimensional structures include the rhetorical (ways in which knowledge is constructed through language and infused into popular consciousness, systematically uplifting some groups and denigrating others), the institutional (ways in which formal organizations adjust individual and group relations according to societal norms, systematically advantaging some groups and disadvantaging others), and the economic (means for allocating societal benefits and burdens, sometimes largely on the basis of group membership).[99]

Those rhetorical, institutional and economic structures are "situationally redeployed" when groups formerly or even currently disadvantaged by those structures exercise some degree of emergent power to embrace or employ those structures

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our culture, our physical appearance, our manner of dress, our religious beliefs, our genealogies, our bones, our chanting, our political opinions, and even our names. Nor did this degradation end in the past, it flourishes today.

Lilikala Kame'eleihiwa, *The Legacy of Colonialism and the Role of the University: A Native Hawaiian Point of View*, RESTRUCTURING FOR ETHNIC PEACE 102, 104-05 *supra*. *Cf.* REY CHOW, WRITING DIASPORA: TACTICS OF INTERVENTION IN CONTEMPORARY CULTURAL STUDIES 37 (1993) [hereinafter CHOW, WRITING DIASPORA] (cautioning about the ways that observer "efforts to invoke 'history,' 'contexts,' and 'specificities' as ways to resurrect the native" can create "a phantom history in which natives appear as our equals and our images, in our shapes and our forms").

95. *Asian American Resolution, supra* note 42, at 82.

96. Trask, *supra* note 2, at 1206 ("Beyond our cultural difference, the legal history of Hawaiians places us in a separate category from that of immigrants to Hawai'i. Hawaiians are the only people who have legal and historical rights to lands in Hawai'i based on aboriginal occupation.").

97. *Id.* at 1205 ("The politics of coalitions in Hawai'i. . .reveal the separateness of Native people's history from settler histories, and the resulting conflicts that arise when natives and non-natives work together.").

98. *See* Chang, *Rethinking Race supra* note 51, at 5 (racial group redeployment of colonialist structures that oppress other groups).

99. Western-based legal concepts, language and adjudicatory systems are infused into rhetorical, institutional and economic structures. *See* LILIKALA KAME'ELEIHIWA, NATIVE LAND AND FOREIGN DESIRES— PEHEA LA E PONO AI? (1992) (describing how Western concepts of private property and the adoption of a Western legal system in the mid-1800s, operated by Americans, dramatically altered indigenous notions of land usage and ultimately resulted in the "lawful" dispossession of lands from Native Hawaiian leaders and commoners and the concentration of private land ownership in the hands of white Americans). *See also* GEORGE COOPER & GAVAN DAWS, LAND AND POWER HAWAII (1985) (depicting second-generation Japanese Americans and fourth- and fifth-generation Chinese Americans' use of state government positions and rhetoric of land reform to acquire wealth through often surreptitious land transactions and through land developments).

to disadvantage other groups.[100] Professor Haunani-Kay Trask perceives a redeployment of rhetorically and economically oppressive structures by Asian Americans who acquired varying degrees of political and bureaucratic power in Hawai'i. They are former outsiders who now publicly champion private property development and economic liberty, ideas once employed by the white oligarchy to control all aspects of their lives. In redeploying those structures, they "cannot truly understand this cultural value of malama 'aina [caring for the land]" and are "either ignorant of, or hostile to, understanding Hawaiian history and present-day Hawaiian claims."[101]

Professor Michael Haas perceives current subconscious Asian American participation in the redeployment of institutional and economic structures oppressing Native Hawaiians. He first defines institutional racism historically as an institution's "policies, practices and procedures [that] favor[ed] some ethnic groups [whites] over others [Kanaka Maoli (indigenous Hawaiians)] even when persons in the institution harbor[ed] no ethnic prejudice."[102] Those policies, practices and procedures roughly disguised discrimination in jobs, business, education, housing, among other things. Haas then observes:

> [T]oday. . .few props of institutional racism have been dismantled, and many forms of institutional racism that place the *kanaka maoli* at a disadvantage have been defended in our own day by non-*haoles* [i.e., Asian Americans] who claim not to be motivated by. . .racism.[103]

The Reverend Abraham Akaka reflects views of rhetorical and economic oppression held by many Native Hawaiians opposing a legislative "land reform" law. That law enables residential leaseholders to force landowners, primarily large charitable trusts whose beneficiaries are Native Hawaiians, to sell underlying fee interests to leaseholders, including many middle-class Asian Americans. Akaka worries that the rhetoric of private land ownership legitimates a second "mahele" (or land divide), resulting in enhanced economic power by non-Hawaiians and further separation of Hawaiians from Hawaiian lands.

> Memories of the Great Mahele of 1848 come to mind. We feel that pressure for land reform then [through legal recognition of private property ownership and alienability] was due more to a rising generation of Western investors than from the native Hawaiian himself. We cannot but feel that pressure for land reform now is due not to the poorer man—among whom are a great many Hawaiians—but from a new generation of investors from East and West.[104]

Consistent with Reverend Akaka's perceptions of a racial-class hierarchy, social scientist Jonathan Okamura interprets occupation and education statistics to reveal systematic ethnic stratification in Hawai'i, with Asian Americans (Chinese, Japanese

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100. *See infra* Section IIIC discussing the idea of constrained racial group agency in the construction of inter-group relations. The "structures of oppression" redeployed in the context of Native Hawaiians refer to "colonialist" structures. The discussion in this section applies more generally whether or not the structures are rooted in a former colonial society.

101. Trask, *supra* note 2, at 1205.

102. HAAS, *supra* note 88, at 2.

103. *Id.* Haas recounts a U.S. Department of Labor finding of a Title VI civil rights violation by the State Department of Labor in the 1970s for employing 82 percent Japanese Americans to the exclusion of other groups, including whites. The director of the State's Personnel Department justified the predominance of Japanese employees in state government by, among other things, referring to white businesses' refusal to hire Asian Americans prior to statehood. They also stated that excluded groups did not gravitate toward state jobs—whites tended toward public information jobs and Hawaiians and Portuguese toward heavy equipment jobs. *Id.* at 111-12.

104. COOPER & DAWS, *supra* note 99, at 428 (quoting Reverend Akaka's opposition to the Hawaii Land Reform Act in 1968; sentiments still voiced).

and Koreans) and whites on top and Native Hawaiians, among others, including Filipino Americans, at the bottom.[105]

These critical views of Asian Americans are themselves subject to varying critiques. One critique may involve proportionality—mistrust and mistreatment among nonwhite racial groups have been isolated and occasional compared to pervasive historical white domination over those groups. Another critique may address reciprocity—Native Hawaiians have at times participated in the subordination of Asian Americans; group harms flow in both directions.[106] Still another critique may target ideology—many of the harsh criticisms leveled at Asians in America historically have been rooted in myths;[107] in important respects Asians in America continue to be the objects of false praise, ill will and violence.[108] My task in this Article is not to refute or challenge critical views of Asian Americans—although I recognize the potential dangers of these views in terms of essentialism, stereotype perpetuation and promotion of Asian-bashing. My task also is not to diminish the significance of white elite control historically and considerable white institutional influence currently in the construction of frameworks within which Asian Americans interact with other groups of color.[109] Other recent scholarship unravels a historical and contemporary legal core to "white privilege."[110] My task in highlighting views of inverted Asian American foreignness is to clear space for expanded contextual inquiry into complex notions of Asian American agency and responsibility and sketching theoretical implications for interracial justice.

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105. Jonathan Okamura, *Ethnicity and Stratification in Hawaii*, HONOLULU: OPERATION MANONG RESOURCE PAPERS, No. 1, University of Hawaii, Manoa (1990) (finding Native Hawaiians, Samoans and Filipinos stratified at the bottom), Chang, *Rethinking Race supra* note 51, at 2; HAAS, INSTITUTIONAL RACISM, *supra* note 88, at 268 ("Whites continued to dominate the private sector, and Japanese appeared determined to colonize state government, but this left Filipinos, Guamanians, Hawaiians, Puerto Ricans, Samoans, and Vietnamese in subordinate roles with low expectations of upward mobility.").

106. *See infra* note 190.

107. *See* Okamura, *supra* note 91 at (describing a "mythology" of Japanese American dominance in terms of corporate power).

108. Chew, *supra* note 61, at 8. Professor Chew aptly describes societal distortions of images of Asian Americans: "Societal beliefs that Asian Americans are not generally discriminated against, are the model minority, and are well-represented throughout most industries and professions form a three-legged stand for the composite image of a successful and assimilated minority group. These beliefs, however, turn out to be precarious distortions of reality." *Id.* at 8. Professor Chew observes that despite the salutary patina of those images, negative consequences for Asian Americans flow from them. She perceives "how the myths and troubling realities of Asian American life have led to American society's indifference, protectionism, confinement, and rejection of Asian Americans." *Id.* at 56. *See also* Jerry Kang, Note, *Racial Violence Against Asian Americans*, 106 HARV. L. REV. 1926 (1993) (describing numerous recent acts of anti-Asian American violence).

109. For a discussion of white oligarchical control over most aspects of economic, political and social life in Hawai'i over the first half of this century, see FUCHS, supra note 29. Current institutional influence in Hawaii continues but is more subtle. *See* HAAS *supra* note 88, at 264 (describing continuing white dominance of the private business sector). Charles Lawrence, III, perceives continuing significance of the "ideology and culture of white supremacy" nationwide, which "turn communities of color against one another by creating hierarchies of privilege and access and by assigning racially subordinated groups to different places within those hierarchies." Charles Lawrence, III, *Foreword: Race, Multiculturalism, and the Jurisprudence of Transformation*, 47 STAN. L. REV. 819, 831 (1995).

110. *See, e.g.*, Harris, *supra* note 81 (describing ways in which law has recognized a property interest in whiteness and ways in which whiteness confers societal privileges not conferred upon nonwhites); IAN HANEY-LOPEZ, WHITE BY LAW (1995); JOE R. FEAGIN & HERNAN VERA, WHITE RACISM: THE BASICS (1995); DAVID R. ROEDIGER, TOWARDS THE ABOLITION OF WHITENESS: ESSAYS ON RACE, POLITICS, AND WORKING CLASS HISTORY (1994).

2.   *Engendering Expanded Contextual Inquiry*

By decentering whiteness as referent and raising charges of Asian American ignorance of and hostility towards others, the inversion of Asian American foreignness engenders expanded contextual inquiry. It challenges Asian Americans and all racial groups, in assessing group identity amid changing demographics and social structure, to look beyond their own struggles with predominantly white-controlled institutions and perceptions. It engenders inquiry into the identity, claims and goals of other racial groups, including America's first peoples. It thereby challenges Asian Americans to think about themselves in relation to other racial groups,[111] to see Asian Americans as simultaneously privileged and subordinated, empowered and disempowered.[112] In particular, the inversion of Asian American foreignness opens for scrutiny the extent to which Asian American groups or subgroups, themselves subject to almost continual stereotyping, discrimination and violence over the last 150 years in America,[113] nevertheless have in Reverend Wong's words situationally "exploited and dehumanized" and "taken advantage of" indigenous peoples and other racial groups, implicating the apology resolution's perceptions of a "particular dynamic" of "mutual misunderstanding and mistrust," the use of stereotypes and caricatures "to demean and dehumanize," and the "persistence of racist attitudes and actions."[114]

This scrutiny expands the field of vision for Asian Americans beyond microinteractions with other racial groups in daily life. It expands contextual inquiry, for example, into the power dynamics of the "violent discourse" between Korean Americans and African Americans in South Central Los Angeles and other locales.[115] It asks about the historical foundation, current impact and social meaning of Chinese Americans' racial discrimination challenge to a compelled San Francisco public high school desegregation plan on grounds that its ceiling on Chinese American student admissions unfairly favors less qualified African Americans and Latinos.[116] It searches perceptions, attitudes and understandings underlying Asian Americans' evenly split vote on California's Proposition 187 concerning the treatment of undocumented, primarily Latino and recent Asian, immigrants.[117]

3.   *Connecting Postcolonial and Racialization Theories of Agency*

Expanded contextual inquiry of this sort is significant for its theoretical implications. By underscoring the formative role of relations with other racial groups and

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111. *See* MARTHA MINOW, MAKING ALL THE DIFFERENCE 173-74 (1990) (describing a "social-relations approach [that focuses on relationships] to difference" among social groups).

112. *See supra* note 25 (addressing the utility of employing the category "Asian American" while acknowledging heterogeneity within the category and that discussion about "Asian Americans" will apply to some subgroups and not others in any given instance).

113. Chew, *supra* note 61.

114. *Asian American Resolution, supra* note 42, at 82. *See infra* notes 187-91 and accompanying text (discussing differential racialization of Native Hawaiians and Asian Americans).

115. *See* Robinson, *supra* note 7.

116. *See* Selena Dong, *"Too Many Asians": The Challenge of Fighting Discrimination Against Asian Americans and Preserving Affirmative Action*, 47 STAN. L. REV. 1027, 1031 (1995); *see also Chinese Americans Sue to Remove Ethnic Quotas*, HONOLULU STAR BULLETIN, July 12, 1994, at A-7 (quoting state Senator Quentin Kopp as saying, "[t]his [challenge] has been a long time in coming. . .in San Francisco, where Chinese Americans and Asian Americans are discriminated against").

117. *See* Thomas D. Elias, *Calif. Immigrants Fear Hatred Set Free by Prop. 187*, HONOLULU STAR BULLETIN, Dec. 12, 1994, at A-9 (reciting accounts of public and private hostility directed primarily toward Latinos and Latinas, both documented and undocumented, immediately following passage of Proposition 187).

particularly indigenous peoples, the repositioning of Asian American foreignness additionally situates Asian American identity within "highly fluid, highly contested post-colonial borderland site[s] of continuing struggles for identity and power."[118] Situating Asian American identity within postcolonial borderland sites[119] requires Asian American engagement with Native Hawaiian, Native American, Mexican American, and, to a meaningful extent, African American responses to the present-day effects of the historical land dispossession and culture suppression. It calls for theory development that addresses racial group agency and responsibility in 21st century multiracial settings characterized by "continuing struggles for identity and power."

As feminist scholars have recognized in contemplating borderland struggles over race and gender, "different systems of stratification require acknowledging how privilege and oppression are often not absolute categories but, rather, shift in relation to different axes of power and powerlessness."[120] For Susan Stanford Friedman, power in multiple social systems flows in many directions. Social actors at the boundaries of those systems assume multiple, sometimes dissonant, roles. "Victims can also be victimizers; agents of change can also be complicitous, depending on the particular axis of power."[121] Indeed, Omi and Winant observe that "new relationships emerge chiefly at the point where some counterhegemonic or postcolonial power is attained."[122]

The intensifying attention to "new [i.e., interracial] relationships" in highly fluid, contested borderland sites highlights the need for a theory of racial group agency and responsibility that accounts for the conflictual nature of power among racial groups. How do we comprehend racial groups as social actors in their struggles for identity and power in light of their potential during those struggles both for liberating action and for redeploying oppressive rhetorical, institutional and economic structures?

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118. Jeff Chang, *Rethinking Race, supra* note 51, at 12 Although this Article focuses on Asian American relations with Hawai'i's indigenous peoples, its discussion applies generally to Asian American interactions with racial groups, and particularly indigenous groups in other, to use Chang's term, "post-colonial borderland sites." I use the term "borderland sites" in two ways. One is territorial, the other is representational. Defined territorially, those sites encompass locales in which situations historically oppressive to racial groups are undergoing demographic, economic and socio-political change. In the United States those sites might include Hawai'i and parts of California, Oregon, Washington, New Mexico, Arizona, Texas, Alaska, New York and Washington D.C., among other places. *See infra* note 141 and accompanying text discussing dual usages of "post-colonial". Defined representationally, "borderland sites" refer to the locus of cultural or ideological struggle over the images and subjectivities, the representations of people challenging systemic oppression. As Professor Rey Chow observes, critical cultural and post-colonial analyses may be meaningful even where a particular area, or society, remained "territorially independent," describing how "ideological domination" can occur "without physical coercion [from the outside], without actually capturing the body and the land." CHOW, WRITING DIASPORA, *supra* note 94, at 8. Chow focuses on the "effects of the imperialistic *transformation of value and value-production*." *Id.* at 9.

119. *See infra* note 141 for a discussion of the term "postcolonial" and postcolonial theory.

120. Susan S. Friedman, *Beyond White and Other: Relationality and Narratives of Race in Feminist Discourse*, SIGNS at 7 (Autumn 1995).

121. *Id.* at 18. *See also* Trina Grillo & Stephanie Wildman, *Obscuring the Importance of Race: The Dangers of Making Comparisons Between Racism and Sexism (or Other-isms)*, 1991 DUKE L.J. 397; Stephanie M. Wildman & Adrienne D. Davis, *Language and Silence: Making Systems of Power and Privilege Visible*, 35 SANTA CLARA L.REV. 88 (1995); Martha Mahoney, *Whiteness and Women In Practice and Theory: A Reply to Catherine MacKinnon*, 5 YALE J.L. & FEM. 217 (1993); Marlee Kline, *Race, Racism and Feminist Legal Theory*, 12 HARV. WOMEN's L.J. 11 (1989); Angela Harris, *Race and Essentialism in Feminist Legal Theory*, 42 STAN. L.REV. 581 (1990).

122. Michael Omi & Howard Winant, *On the Theoretical Status of the Concept of Race, in* RACE, IDENTITY AND REPRESENTATION IN EDUCATION (Cameron McCarthy & Warren Crichlow eds. 1993).

Two divergent approaches to minority racial group agency and responsibility emerged in the 1960s and the 1970s civil rights era. One approach drew upon what Omi and Winant call "neoconservative ethnicity theory;" the other on colonialism or related nationalism and class-based theories.[123] The former engaged in a form of social scientific cultural analysis; the latter in structural analysis. Those two approaches tended to polarize discussions about racial group agency and responsibility, often along political lines. Those approaches frame contemporary thinking. Their continuing influence is deeply problematic. They fail to reflect changes in America's racial demographics, economic structure and political views of civil rights. More important, they fail to account adequately for the complexity of racial group agency in the structuring of group identities and inter-group relations. As discussed below, neither provides sharp insight into the fluid, situated nature of racial group agency; neither illuminates in meaningful fashion group responsibility for interracial harms and prospects for interracial healing in post-civil rights America.

Ethnicity theory, in its prevailing neoconservative form,[124] tends to overstate the extent of racial group agency. It focuses on the impacts of culture on immigrant racial group assimilation into a mythic white American mainstream.[125] Assimilation, and therefore success, is dependent upon each group's characteristics, including cultural values and practices concerning education, work and family. Each group, by virtue of those characteristics, controls its destiny.[126] Failure to assimilate fully is the fault of the group and its culture.[127] Neoconservative ethnicity theory draws these conclusions about racial group agency through the "immigrant analogy."[128] America opens the same general path for all immigrants, a path of contact, conflict, accommodation and finally assimilation. Ethnic Italians and Irish, for example, by virtue of their cultural characteristics, assimilated after early conflicts. By aggregating early white ethnic immigrants with more recent immigrants of color, however, the immigrant analogy ignores unique, often insurmountable institutional and attitudinal racial barriers facing nonwhite immigrant groups. It ignores "ongoing processes of discrimination, shifts in the prevailing economic climate [and] the de-

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123. OMI & WINANT, *supra* note 23, at 19.

124. *See* NATHAN GLAZER & DANIEL MOYNIHAN, BEYOND THE MELTING POT: THE NEGROES, PUERTO RICANS, JEWS, ITALIANS, AND IRISH OF NEW YORK CITY (2d ed. 1970); *infra* notes 126-30.

125. *See id.* (focusing attention on an immigrant groups' ability to assimilate into the mainstream); *see also* OMI & WINANT, RACIAL FORMATION, *supra* note 23.

126. *See* GLAZER & MOYNIHAN, *supra* note 124; *see also* OMI & WINANT, *supra* note 23, at 20. "Through hard work, patience, delayed gratification, etc., [ethnicity theory posited that] blacks could carve out their own rightful place in American society." *Id.*

127. DINESH D'SOUZA, THE END OF RACISM: PRINCIPLES FOR A MULTIRACIAL AMERICA (1995) (arguing that racial group "success" is dependent on group culture and that Euro-American culture is superior to other cultures).

128. Ethnicity theory reduces "race to an element of ethnicity." OMI & WINANT, *supra* note 23, at 21. Omi and Winant describe how this reduction facilitated the reworking of ethnicity theory in the 1970s to produce "the phenomenon of neoconservatism" that developed a "conservative egalitarian perspective which emphasized the dangerous radicalism and. . .antidemocratic character of 'positive' or 'affirmative' antidiscrimination policies." *Id.* at 20. *See* ROBERT BLAUNER, RACIAL OPPRESSION IN AMERICA 21 (1972). Reworked ethnicity theory instead focused on equality for individuals and highlighted group cultural norms and values. That approach, for some, "tends to 'blame the victims' for their plight and thus to deflect attention away from the ubiquity of racial meanings and dynamics." *Id. See also* WILLIAM P. RYAN, BLAMING THE VICTIM (1976). It is rooted in the "European immigrant analogy"—a belief that immigrants of color face identical circumstances faced earlier by white European immigrants and that success or failure at assimilation can be attributed to internal group traits. OMI & WINANT, *supra* note 23, at 21; Haney-Lopez, *supra* note 33, at 21-4 (criticizing ethnicity theory's employment of the immigrant analogy and its deemphasis on race).

velopment of a sophisticated racial ideology of 'conservative egalitarianism.'"[129]   In doing so, it overdetermines the extent of immigrant racial group agency, and therefore responsibility,[130] concerning group socio-economic status and inter-group relations.

In contrast, colonialism,[131] internal colonialism[132] and related nationalism[133] theories tend to underdetermine racial group agency. According to those theories, in their many permutations, dominant institutional structures determine racial identities and racial group relations for largely economic reasons, eliminating racial group agency and, by implication, racial group responsibility.

Colonialism theories tend to view race as an institutionally employed mechanism for devaluing conquered racial groups for purposes of justifying white imperialist control over land and resources.[134] Those theories address ways in which racial

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129. OMI & WINANT, *supra* note 23, at 20-21 (differentiating the immigrant experience in terms of "a qualitatively different historical experience. . .which included slavery, colonization, racially based exclusion, and in the case of Native Americans, virtual extirpation").

130. *Id.* at 21 (noting that the ethnicity paradigm "tends to 'blame the victims' for their plight and thus to deflect attention away from the ubiquity of racial meanings and dynamics"). The immigrant analogy also assumes that racial group success is measured by assimilation as distinguished from forms of cultural pluralism.

131. BLAUNER, *supra* note 128, at 83-85.

> Colonialism traditionally refers to the establishment of domination over a geographically external political unit, most often inhabited by people of a different race and culture, where this domination is political and economic and the colony exists subordinated to and dependent upon the mother country. Typically, the colonizers exploit the land, the raw materials, the labor. . . .
>
> [T]he colonizing power carries out a policy that constrains, transforms, or destroys indigenous values, orientations, and ways of life. [There exists] a special relationship to governmental bureaucracies or the legal order. . . .
>
> The final component of colonization is racism. Racism is a principle of social domination by which a group seen as inferior or different in alleged biological characteristics is exploited, controlled, and oppressed socially and psychically by a superordinate group.

Id.; see also David W. Gegeo, *Colonialism at the University of Hawai'i: The Experience of a Pacific Island Student, in* RESTRUCTURING FOR ETHNIC PEACE, *supra* note 94, at 123-24 (describing characteristics of colonialism in the Pacific).

132. Blauner, a strong proponent of internal colonialization theory in the 1970s, linked third world peoples with racial minorities in the United States and described American internal colonialism in terms of American conquest and hegemony over racial groups within North American borders:

> American society has always been a part of this Western colonial dynamic, however isolated we were from the European center. Our own development proceeded on the basis of Indian conquests and land seizures, on the enslavement of African peoples, and in terms of a westward expansion that involved war with Mexico and the incorporation of half that nation's territory.

BLAUNER, *supra* note 128, at 12. *Cf.* OMI & WINANT, *supra* note 23, at 49 (criticizing Blauner's essentializing internal colonialism theory as neglecting "class cleavages within minority communities, inter-minority group rivalries, and the extensive interpenetration in the U.S. of minority and majority societies"). *See generally* Noel J. Kent, *To Challenge Colonial Structures and Preserve the Integrity of Place: The Unique Potential Role of the University, in* RESTRUCTURING FOR ETHNIC PEACE, supra note 94, at 118. Kent writes that

> [c]olonialism is alive and well and living in Hawai'i today. . . . We see it in the suppression of the Hawaiian and Hawaiian Creole languages in the public school system; the general economic and social condition of the Hawaiian people;. . .the desecration of sacred Hawaiian relics[;] the twenty large resorts complexes planned for completion before the end of the century, which will consolidate the stranglehold of international tourism corporations over the island economy").

Id. at 118.

133. OMI & WINANT, *supra* note 23, at 36-47 (the nation-based paradigm retains an "explanatory framework based on race," but addresses racial formation issues inadequately through a "distorted 'national' lens"); TRASK, supra note 93; Gary Peller, *Race Consciousness,* 1990 DUKE L.J. 758 (describing theories underlying African American nationalism movements).

134. *See supra* note 131 (discussing function of racism in traditional colonialism theory). *See also* OMI & WINANT, *supra* note 23, at 108-12 (discussing nationalism theories and their incomplete treatment of race). Internal colonialism theory essentializes racial groups in the United States and links them with "Third World" groups in opposition to western capitalist domination. BLAUNER, *supra* note 128, at 72-3 ("The present

discourses helped legitimate European colonial domination. Racial stereotyping by colonizers created the dehumanized racial "other," which in turn justified continuing conquest.[135] In related fashion, internal colonialism theory links all racial minorities in America with formerly colonized "Third World" groups internationally in opposition primarily to continuing Western capitalist domination.[136] Racial groups throughout the world are stigmatized as inferior so that predominantly white capitalists can continue to exploit labor and maintain control over land and capital. According to these colonialism views, group agency is defined in terms of collective oppositional power. The focal point of social action is resistance against the socio-economic structures created and maintained by dominant Western powers.[137] Interracial distinctions are submerged and interracial conflicts are attributed to dominant power strategies of divide and conquer. Racial group agency in the formation of interracial relations is minimized.

Nationalist movements in the late 1960s emerged as one response to colonialism analysis and the perceived failure of the civil rights movement's integration strategy. African Americans, Mexican Americans, Native Americans and Native Hawaiians each reconstructed racial identity around notions of group sovereignty and control over land, language and culture.[138] With some exceptions in latter movement phases, however, nationalists linked group agency to oppositional politics. Those politics were dictated by the pervasive institutional structure of white racism.[139] Freedom from racism meant separatism. Separatism meant fighting against. Racial group agency in the construction of inter-group identities relations, again with some latter day exceptions, was subsumed by oppositional fighting. In this way both nationalism and colonialism theories, while retaining apparent vitality for indigenous groups struggling against continuing Western domination, tend to minimize the idea of nonwhite racial groups as social actors in the formation, maintenance and reformation of interracial relations.

Neoconservative ethnicity theory and nationalism/colonialism theories, described here broadly, thus occupy opposite positions in the discussion about racial group agency. Those positions create an either/or dualism, polarizing debate often along conservative-liberal political lines. Either racial groups have the power of self-definition and socio-economic attainment or they do not. If they do, continuing racial group problems are reflective of cultural choice—it is their fault. If they do not, continuing group problems are structurally determined by institutional racism—it is not their fault. That dualism and the political stalemate it generates is consistent with Western thought's penchant for binary oppositions and mirrors the philosophical clash between liberalism's notion of individual autonomy and Marxism's structural determinism.[140] Both of these oppositional positions treat race as an "illusion," a mere cover for "real" underlying forces. The former ignores the struc-

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movement goes further than simply drawing historical and contemporary parallels between the third world within and the third world external to the United States. The new ideology implies that the fate of colonized Americans is tied up with that of the colonial and former colonial peoples of the world.").

135. *See generally* ALBERT MEMMI, THE COLONIZER AND THE COLONIZED (1965); ALBERT MEMMI, *Attempt at a Definition, in* DOMINATED MAN: NOTES TOWARD A PORTRAIT (1968).

136. *See* BLAUNER, *supra* note 128, at 12.

137. *Id.* at 72-73.

138. *See* OMI & WINANT, *supra* note 23, at 45-50.

139. *See generally,* Peller, *supra* note 133, at 758 (describing transition from and tension between the civil rights and black nationalism movements fo the 1960s and 1970s).

140. *See* Kimberle Crenshaw, *Race, Reform and Retrenchment: Transformation and Legitimation in Antidiscrimination Law,* 101 HARV. L. REV. 1331, 1372-73 (1988).

tural constraints of racialization; the latter emphasizes institutional structures to the exclusion of group agency and responsibility.

Postcolonial theory claims space for exploration of group agency in the tension between polar positions.[141] It accounts for initial colonial domination (including the control of land and the suppression of culture), formal decolonization and neo-colonization and the complexity introduced by partial integration of indigenous people and racial immigrants into the dominant mainstream.[142] Most important for this Article, aspects of postcolonial theory address shifting power among groups amid changes in racial demographics and socio-economic structure.[143] They observe how some historically subordinated groups with a degree of newly-acquired power sometimes situationally redeploy colonialist structures of control and adopt oppressive attitudes to subordinate other groups.[144] The redeployment can occur

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141. The term "postcolonial" can be used in several ways. "Post-colonial," with a hyphen, is used to denote time, space and structure—that is, a formerly colonized society that has been decolonized or is in the process of formal decolonization. Vijay Mishra & Bob Hodge, *What Is Post(-)colonialism?*, in COLONIAL DISCOURSE & POST-COLONIAL THEORY 276 (Patrick Williams & Laura Chrisman eds., 1994) ("Post-colonial" thus becomes something which is "post" or "after colonial"). "Post-colonial" thus can refer to physical settings in which formal colonization has ended or is ending but in which the effects and structures of colonialism remain. Professor Trask argues that Hawai'i is not post-colonial in this sense, but colonial, since the occupying power, the United States, remains and the former sovereign nation of Hawai'i has not regained independence. TRASK, *supra* note 93, at 133. "Postcolonial," with or without the hyphen, is also used to describe the "critical study of colonial discourse." Lata Mani, *Cultural Theory, Colonial Texts: Reading Eyewitness Accounts of Widow Burning*, in CULTURAL STUDIES 392, 394 (Lawrence Grossberg et al. eds., 1992). Postcolonial theory in this usage is a critique of largely Western European methods of knowledge production and representation which not only excluded "others" from participation in the polity as subjects but also supported colonial control over foreign territories. *See* Williams & Chrisman, *Colonial Discourse and Post-Colonial Theory: An Introduction*, in COLONIAL DISCOURSE & POST-COLONIAL THEORY, *supra* (Patrick Williams & Laura Chrisman eds., 1994) ("Colonial discourse analysis and post-colonial theory are thus critiques of the process of production of knowledge about the Other."). "Postcolonial theory," in this sense, addresses the reconstruction of knowledge and the transition of power. *See* ANNE MCCLINTOCK, THE ANGEL OF PROGRESS: PITFALLS OF THE TERM 'POST-COLONIALISM' 294 (1992) (observing that misuse of the concept of postcolonialism results in disguising structures of colonialism and warning about scholars' focus on time rather than on power in defining postcolonial).

142. *See generally* COLONIAL DISCOURSE & POST-COLONIAL THEORY, *supra* note 141, at 1-20. Another aspect of postcolonial theory is neocolonialism. The failure of the West to relinquish control over former colonies and this "continuing Western influence, located in flexible combinations of the economic, the political, the military and the ideological (but with an over-riding economic purpose), was named neo-colonialism". *Id.* at 3.

143. *See generally* CHOW, WRITING DIASPORA, *supra* note 94, at 26 (chapter on "Where Have All the Natives Gone," discussing constructions of the "authentic native"); Ngugi wa Thiong'o, *The Language of African Literature*, in COLONIAL DISCOURSE & POST-COLONIAL THEORY, *supra* note 141, at 435; Sara Suleri, *Woman Skin Deep: Feminism and the Postcolonial Condition*, 18 CRITICAL INQUIRY 756 (1992); Gayatri C. Spivak, *Who Claims Alterity?*, in REMAKING HIST. (Barbara Kruger & Phil Marian eds., 1989); TRASK, *supra* note 93. Professor Trask addresses the significance of power struggles over identity for Native Hawaiians:

> Who we believe ourselves to be is often not what the colonial legal system defines us to be. [By federal and state law a person must be of 50 percent Hawaiian blood to qualify as a Native Hawaiian]. This disjunction causes a kind of suffering nearly impossible to end without ending the colonial definitions of who we are. Barring this, we are constantly in struggle with government agencies and, sometimes, with our own people. We are besieged by state powers attempting to decrease our numbers and therefore our claims by merely defining us out of existence. Or, we are categorized in a manner alien to our cultures in the hopes of strangling our ancestral attachments to our own people. . . . Definition, then, has served to co-opt our identity.

Id. at 135-36.

144. *See supra* notes 95-105 and accompanying text.
    Professor Reginald Robinson notes that Korean American immigrant entrepreneurs, although subject to mainstream discrimination in obtaining jobs, loans and property, nevertheless tend to exploit workers, particularly those within their community. Robinson, *supra* note 7, at 73. Professor Edna Bonacich explains this in terms of Asian American "middle man minority" status, in which minority entrepreneurs, who face hostil-

even though the groups themselves remain objects of enmity and violence. Professor Rey Chow observes that as multiculturalism and "rhetorical claims to political change and difference" are advanced, "many deep-rooted, politically reactionary forces return to haunt us."[145] The "new solidarities" generated by these forces "are often informed by a *strategic* attitude which repeats what they seek to overthrow. The weight of old ideologies being reinforced. . .is immense."[146] This aspect of postcolonial theory posits that a central "challenge facing any movement disman-tling. . .a system in which one culture dominates another. . .is to provide for a new order that does not reproduce the social structure of the old system."[147] It provides an opening for scrutinizing the ways in which racial groups, amid struggles over identity and power, work with and against, lift up and oppress, other groups.[148] It thereby reclaims the concept of racial group agency in those settings.[149] Although early postcolonial theory appeared to deny the agency of those colonized—"[t]hey cannot represent themselves; they must be represented"[150]—subsequent work recog-nized a limited or constrained form of agency.[151] The subordinated can "speak" for

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ity and discrimination by mainstream society, locate themselves between "producer and consumer, employer and employee, . . .and elite and masses." Edna Bonacich, *A Theory of Middlemen Minorities*, 38 AMER. SOC. REV. 583 (1973). Bonacich and Light describe immigrant Korean subcontractor firms which feel compelled by competition and discrimination to accept minimum price payments from manufacturers. Those "middle" firms then operate in substandard conditions, pay less than minimum wage and generally exploit workers. "[M]inority subcontractors [thus] are perceived as callous,. . .oppressive, and exploitative, allowing actual employers to remain essentially invisible. . . ." Robinson, *supra* note 7, at 110. This leads some African Americans to view Koreans in America as the "new economic exploiters." *Id.* at 80.

145. CHOW, WRITING DIASPORA, *supra* note 94, at 16-17. Professor Chow's observation is cast in the context of cultural studies and "why 'tactics' are useful at this moment?" *Id.* at 16. The "deep-rooted, politically reactionary forces" she perceives, which coalesce into "new 'solidarities,'" include "[e]ssentialist notions of culture and history; conservative notions of territorial and linguistic propriety, and the 'otherness' ensuing from them; unattested claims of oppression and victimization that are used merely to guilt-trip and to control; sexist and racist reaffirmations. . .in the name of righteousness." *Id.* at 17.

146. *Id.* at 16-17.

147. Lowe, *supra* note 30, at 31. Lowe describes the "re-reading" of Frantz Fanon in the 1990s as a "serious critique of nationalism" in assessing the construction of Asian American identity and its social mean-ings. Lowe draws upon Fanon's identification of "both bourgeois assimilation [of a racial, cultural or nation-alist group] and colonialism that produce the same structure of cultural domination." *Id.* at 29-30. She perceives Fanon as warning against "nationalism practiced by bourgeois neocolonial governments [that]. . . . can be distorted easily into racism, territorialism, separatism, or ethnic dictatorships of one tribe or regional group over others." *See* FRANTZ FANON, THE WRETCHED OF THE EARTH (Constance Farrington trans., 1963) (Algerian resistance to French colonialism).

148. The Asian American resolution and the messy, intense, introspective contemplation of it by various individuals and churches in the denomination, discussed in Section II, reflects racial groups struggling with their dual potential to "lift up and oppress."

149. Patrick Williams and Laura Chrisman believe postcolonial theory is beginning to explore the issue of group agency. COLONIAL DISCOURSE & POST-COLONIAL THEORY, *supra* note 141, at 4. One turn in that exploration is the constitutive role of the "other"—or the "extent to which the subaltern may have played a constitutive rather than a reflective role in colonial and domestic imperial discourse and subjectivity." *Id.* at 16. Williams and Chrisman argue that "[r]ather than being that other onto which the coloniser projects a previously constituted subjectivity and knowledge, native presences, locations, and political resistance need to be further theorised as having a determining or primary role in colonial discourse." *Id.* In this Article, I suggest further exploration and extension of the concept of racial group agency to encompass a partially constitutive role for racial groups in shaping discourse and relations with other groups. *See also* HOWARD WINANT, RACIAL CONDITIONS 95 (1994) ("What constitutes [racial] identity is *political agency*, the construc-tion of categories for strategic reasons and in response to perceived needs.").

150. SAID, ORIENTALISM, *supra* note 73, at 96.

151. Introduction, COLONIAL DISCOURSE AND POST COLONIAL THEORY, *supra* note 141, at 4.

themselves, and thereby at least partially define themselves in relation to dominant powers and other groups, even if only in fractured ways.[152]

Agency is conceived neither in terms of free-standing individual autonomy nor straight-jacketed structural determinism. Agency is the existence of affirmative group power to self-define and to interact with other groups, the exercise of which is both facilitated and constrained by socio-political circumstances. Professor Ian Haney-Lopez posits that "choice comprises a crucial ingredient in the construction of racial identities."[153] He also acknowledges parameters to choice, observing that in "every circumstance, choices are exercised not by free agents or autonomous actors, but by people who are compromised and constrained by social context."[154]

That context for racial minorities has multiple dimensions. It is characterized by continuing political and demographic changes.[155] Those changes are reflected in:

> the rise of nonblack racial minorities, the enormous influx of nonwhite immigrants. . ., the proportional decrease of Euro-Americans, the widespread phenomenon of racial and ethnic mixing, the growing heterogeneity. . .of all cultural groups (and individuals within those groups) and even the dissolution of fixed boundaries in the "conventional black and white dialectic."[156]

That context is also characterized by middle America struggling with and against those changes. It encompasses America's historical legacy of white domination, along with racial minority cultural and political resistance. It encompasses governmental entitlement and affirmative action programs addressed to racism, poverty and sexism, along with recent middle class white male backlash. And it encompasses racial, gender and sexual orientation claims to group empowerment, along with a rise in inter-group conflicts and intensifying neoconservative individualism.[157]

By recognizing the tension between continuing racial group subordination and emerging group power and by locating racial group agency within that tension, postcolonial theory provides a dynamic yet constrained view of group agency. And by recognizing forms of situated group agency, postcolonial theory suggests a corollary to group power—group responsibility. For Professor Cornel West, racial group responsibility is situated within a racial hierarchy and enlivened by ethical or moral principles. West offers a "prophetic" approach to a mature racial identity.[158] For blacks in particular, that identity is rooted in self-love and self-respect and is grounded on "the moral quality of black responses to undeniable racist degradation in the American past and present."[159] Notions of responsibility inform the moral quality of black responses. Black responses are moral where they assess "the variety

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152. Gayatri C. Spivak, *Can the Subaltern Speak?* in MARXISM AND THE INTERPRETATION OF CULTURE (Cary Nelson & Lawrence Grossberg eds., 1988) (positing a minimalist or nonexistent voice of the subordinated in traditional discourse but recognizing a capacity for ad hoc rewriting of social texts through calculated acts of resistance).

153. Haney-Lopez, *supra* note 33, at 47. In the passage quoted, Haney-Lopez was addressing individual choice of racial identities. This observation, later set within notions of community, appears to apply also to group choice.

154. *Id.*

155. Friedman, *supra* note 120, at 3.

156. *Id.*

157. *See* OMI & WINANT, *supra* note 23, at 95-136 (describing the "great transformation" in the 1960s and 1970s and "race and reaction" in the 1980s and 1990s).

158. Cornel West, *Black Leadership and the Pitfalls of Racial Reasoning,* in RACE-ING JUSTICE, EN-GENDERING POWER: ESSAYS ON ANITA HILL, CLARENCE THOMAS, AND THE CONSTRUCTION OF SOCIAL REALITY 397 (Toni Morrison, ed., 1992).

159. *Id.* at 396.

of perspectives held by black people" and select "those views based on black dignity and decency that eschew putting any group of people or culture on a pedestal or in the gutter."[160] The mature black identity is thus cast in terms of agency ("specific black responses" to racist degredation)[161] and responsibility ("responses such that the humanity of black people does not rest on. . .demonizing others").[162]

Responsibility is accepted in the first instance by each group's commitment to recognize the hierarchical structure of power in race relations and to advance socially, politically and economically without denigrating or otherwise subordinating other racial groups.[163] Where efforts toward self-definition or material advancement nevertheless denigrate or subordinate others, responsibility is discharged through a combination of acknowledgement, ameliorative action and structural change—that is, some form of racial healing. Postcolonial theory and ethics thus begin to address the roots of racial group responsibility: the mutual implication of institutional structure and group agency; the exercise of group choice within a field of hierarchical power.

Postcolonial theory itself is susceptible to criticism on at least two grounds.[164] First, postcolonial theory is subject to criticism on grounds that its focus on colonialist representations of colonial subjects and on response by those subjects tends to ignore the dynamics of inter-group power among non-dominant groups, or the exercise of agency in inter-group relations. Second, postcolonial theory is susceptible to the related criticism that it is insufficiently attentive to the salience and complexity of racial difference. Postcolonial theory, like colonialism and nationalism theories, tends to homogenize racial groups, focusing on common oppression by white-controlled social and political structures.

The repositioning of Asian American identity to encompass relations with indigenous peoples begins to respond to these criticisms and suggests a linkage of aspects of postcolonial theory with notions of "differential racialization"[165] and "differential disempowerment"[166] to better account for the "politics of difference."[167] I term this linkage postcolonial racialization theory.

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160. *Id.* at 397.

161. *Id.*

162. *Id.*

163. *See also* WEST, *supra* note 33, at 28-29 (describing "prophetic moral reasoning").

164. *See* Russell Jacoby, *Marginal Returns: The Trouble with Post-Colonial Theory*, LINGUA FRANCA 30-37 (Oct. 1995). In addition to the two grounds discussed in the text, postcolonial theory is charged with being "all over the map," to encompass three fourths of the world over four centuries. Postcolonial theory is also charged with falsely valorizing marginality. *See* ARIF DIRLIK, CRITICAL INQUIRY (1995) (discussing the success of postcolonial studies and the arrival of Third World scholars at major First World universities).

165. Michael Omi, *Out of the Melting Pot and Into the Fire: Race Relations Policy, in* THE STATE OF ASIAN PACIFIC AMERICA: POLICY ISSUES TO THE YEAR 2020, 199, 207 (1993). *See also* WINANT, *supra* note 149, at 62-64.

166. Jeff Chang, *On Ice Cube's "Black Korea", in* 19 AMERASIA J. 87, 101-03 (1993). Chang observes that the political organizing of minorities in South Central Los Angeles followed two different, sometimes compatible, sometimes conflicting theories of organizing.

Many African American groups organized under an anti-colonial approach. "This approach is rooted in the idea that [all] racial minorities in America are, and have historically been, colonized peoples who share a similar situation of oppression and because of which have a common natural unity against the white colonizers." *Id.* at 102. Many Korean Americans, however, failed to fit within this framework. As recent immigrants, they had not experienced the same type of oppression as African Americans and therefore did not share a feeling of solidarity rooted in common oppression. In addition, many publicly visible Korean Americans were merchants with small shops in African American and Latino neighborhoods, thus creating potential micro-economic power imbalances. Koreans in the area thus organized on the basis of ethnicity—focusing on Korean American problems and Korean American culture. Chang notes that such an approach, which he terms "nationalist," is also problematic. "This approach depends upon an ethnic-nonethnic axis, calling for

In broad terms, among other things, postcolonial theory addresses power and identity among groups in postcolonial settings and ways in which oppressive institutional structures are sometimes dismantled and sometimes transferred and redeployed. It does not, however, address meaningfully why racial groups in postcolonial settings differ in terms of identity, power and status or why different racial categories accrue different racial meanings. And it does not address how constructed racial differences might affect a particular group's redeployment, or non-redeployment, of oppressive structures.

The socio-legal concepts of differential racialization and differential disempowerment begin to address these questions, extending postcolonial theory. For Professors Omi and Winant, race "is understood as an unstable and 'decentered' complex of social meanings constantly being transformed by political struggle."[168] The "concept of racialization signifies the extension of racial meaning to a previously racially unclassified relationship, social practice, or group."[169] Processes of political, cultural and legal conflict racialize groups and thereby form and re-form racial identities and relations.[170] For example, in the late 1960s and 1970s diverse Asian groups in the United States articulated a new encompassing racial identity, "Asian American," to raise political consciousness about common problems and to assert collective demands on government.[171] By minimizing group differences among distinct Asian cultures and political outlooks, the racialization of Asian Americans aggregated political power among formerly disparate, relatively powerless groups.[172] In doing so, however, as revealed by Reverend Wong's testimony on the Asian American apology/redress resolution, the racialization process also generated internal instability in the Asian American category and falsely represented an essentialized Asian American identity.

empowerment through organizing for a limited ethnic solidarity." *Id.* at 102. If Korean Americans are able to better their position in society through this approach, it may be at the expense of other racial groups in the area, including other Asian Americans. This ahistorical "bootstraps" approach to relational conflict exacerbates resentments because the anti-colonial, or coalitional, approach is based upon cooperation between minority groups. Moreover, the individualistic "bootstrap" approach fuels resentment about Korean Americans having jumped ahead of their place in the economic line.

Chang argues that "differential disempowerment" provides a more meaningful relationally-sensitive approach. *Id.* at 103. It is an approach that focuses on recognition of power differences among racial groups and that sees power in terms of race, locale, time, economics. He uses "disempowerment" to emphasize that racial group power in most settings must be assessed in the context of dominant political and economic powers in the area. *Id.* Only when groups acknowledge how and why they are differentially empowered or disempowered can they begin to work in coalition and advance their interests. *Id.*

167. *See* Angela P. Harris, *Foreword: The Jurisprudence of Reconstruction*, 82 CAL. L. REV. 741, 760 (1994) (describing the "politics of difference" in terms of "a dual commitment to anti-racist critique and to maintaining the distinctive cultures formed in part by race").

168. OMI & WINANT, *supra* note 23, at 55.

169. Omi, *supra* note 165, at 203.

170. Omi and Winant define racial formation as a "sociohistorical process by which racial categories are created, inhabited, transformed, and destroyed." OMI & WINANT, *supra* note 23, at 55. That process consists of "historically situated *projects* in which human bodies and social structures are represented and organized." *Id.* at 55-6. Omi and Winant link racial formation to the "evolution of hegemony, the way in which society is organized and ruled." *Id.* at 56. This theory "emphasizes the social nature of race, the absence of any essential racial characteristics, the historical flexibility of racial meanings and categories, the conflictual character of race at both the 'micro' and 'macro-social' levels, and the irreducible political aspects of racial dynamics." *Id.* at 4. *See generally* Williamson B.C. Chang, *The "Wasteland" in the Western Exploitation of "Race" and the Environment*, 63 U. COLO. L. REV. 849 (1992) (describing how terms "race" and "people of color" erase salient distinctions between groups voluntarily a part of national communities and indigenous groups made "citizens" by conquest).

171. *See* ESPIRITU, *supra* note 25, at 20. *See also* WINANT, *supra* note 149, at 60.

172. ESPIRITU, *supra* note 25, at 19-24, 31-35.

The concept of "differential racialization" responds in part to the problem of essentialism and in part to questions of group power. It acknowledges that historical and contemporary influences racialize different racial groups and subgroups differently. Omi explains how differences within a group, class cleavages for example, differentially racialize members of the group, creating different levels of racial status and power for subgroups:[173]

> I see the importance of analyzing racial and class divisions in a single unified framework—one which grasps the increasing significance of class for Asian Americans within a social order still highly structured by race. The problems encountered by a rich entrepreneur from Hong Kong and a recently arrived Hmong refugee are obviously distinct. The sites and types of discriminatory acts each is likely to encounter, and the *range of available* responses to them, differ by class location. . . . [A] *differential racialization* has developed between and within different Asian American communities with important consequences for individual identity, collective consciousness, and political organization.[174]

Although Omi attributes differing racialization of Asian American groups primarily to class divisions, he also acknowledges other factors. "Differential isolation" may exist even within subgroups, as between the first and second waves of Vietnamese American immigrants.[175] Professor Pat Chew adds country of origin, length of United States residence and gender to the differential racialization calculus.[176]

The concept of differential racialization, extended to encompass racialized differences between groups as well as within groups, appears significant for postcolonial theory. It furthers inquiry into the extent and form of comparative racial group agency and ways in which group power is exercised. Differences among racial group and subgroup identities sometimes are manifested politically. As Omi observes, differential racialization of groups creates differing racial meanings for those groups, and those meanings bear not only on "individual identity and collective consciousness" but also upon "political organization."[177] They impact upon the "range of available responses."[178] More "established" immigrant groups, with greater resources and access to political power, for example, may organize around mobility issues ("glass ceiling"), while recent immigrant groups may focus on "survival issues" (funding for language classes and job-training programs).[179]

Indigenous groups may embrace these issues or pursue radically divergent agendas. Native Hawaiians, for example, recently have been re-racialized in complex ways, with significant political-legal consequences. Long-term stereotyping of "happy native"[180] has given way to an acknowledgment of some who continue to suffer from land dispossession and culture destruction and of groups who seek self-definition and self-governance.[181] Re-formation of meanings of Native Hawaiian from racial minority to politically subjugated group have provided a foundation for recent return of large tracts of formerly native lands and payments of hundreds of

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173. Omi, *supra* note 165, at 203, 207-8.
174. *Id.* at 207 (emphasis added).
175. *Id.*
176. Chew, *supra* note 61, at 26. Chew also cites other "variables including religion, age, socioeconomic status, occupation, place of residence in their country of origin and in the United States, and reason for immigration." *Id.*
177. Omi, *supra* note 165, at 207. *See supra* notes 165-66 for further discussion of differential racialization.
178. Omi, *supra* note 165, at 207.
179. *Id.* at 208.
180. TRASK, *supra* note 93, at 24.
181. *See id.* at 96 (describing Native Hawaiian demands for self-determination).

millions of dollars to Native Hawaiian public trusts.[182] For descendants of immigrants, for recent immigrants, both voluntary and involuntary, for descendants of slaves and for indigenous peoples, of differing color, cultures and class, with differing racialized group and subgroup identities, political and socio-economic goals and "available responses" may sometimes coincide and oftentimes differ. Those racialized group differences, especially in postcolonial settings, implicate differential power.

For this reason, in light of "growing multiplicities of race and culture, further complicated by class," Jeff Chang suggests a notion of "differential forms of disempowerment among communities of color" to grapple with complex interracial conflicts.[183] He observes that the racialization process, in constructing identities and ascribing racial meanings, fixes status and allocates power differentially among and within racial groups.[184] Differential group power, or perceptions of power or lack of power, often underlies inter-group conflict. He therefore argues for localized attention to interracial conflicts, for a "focus on where and for whom power lies and where and for whom it does not," adding that "this analysis must be situational."[185]

Omi and Chang's related differential racialization and disempowerment concepts are significant for two reasons. First, an acknowledgment of differential power within and among racial groups, however unstable and shifting, is also an acknowledgment of some degree of group agency and responsibility.[186] It raises the questions similar to those raised by postcolonial theory: To what extent do groups in a given situation have power over each other? And what ethical responsibilities attend the exercise of that power? Second, situational or differential racial group power analyses historicize and localize inquiry into contemporary group relations in ways that postcolonial theory does not.

For example, in pre-statehood Hawai'i, white oligarchical control, Asian immigration and Native Hawaiian separation from land and traditional cultural roots constructed differing racial group identities. Native Hawaiians, as former citizens of a conquered sovereign, and Asians, as then first or second generation immigrants, were differentially racialized. John Ogbu's typology distinguishes "voluntary" citizens who are Americans by choice (for example, most Asians) from "involuntary" citizens who are Americans by force (native peoples and African Americans). That typology provides beginning insight into relevant historical patterns of differential racialization.[187] Despite many similar hardships, most Native Hawaiians and Asian Americans were differently situated. Internally, the sense of culture destruction, the impacts of the large-scale death and dying and the spiritual suffering attendant to the dispossession of land characterized Native Hawaiian but not Asian American

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182. *See generally* S. James Anaya, *The Native Hawaiian People and International Human Rights Law: Toward a Remedy for Past and Continuing Wrongs*, 28 GA. L. REV. 309 (1994).

183. Chang, *supra* note 166, at 103. *See supra* note 166 for further discussion of differential disempowerment.

184. Power, as used here, refers to status and perceptions of relative position in a racial hierarchy. It is not referring to overt economic power. Although economics can play a significant role in constructing racial images and meaning, it is but one factor in determining racial positioning. Sometimes positioning is in reference to Anglo American norms and perceptions, sometimes predominantly in reference to other racial groups, and sometimes in combination.

185. Chang, *supra* note 51, at 103. Chang argues for recognition of "differential forms of disempowerment" among communities of color.

186. *See supra* notes 143-154 and accompanying text.

187. *See* OMI & WINANT, *supra* note 23 (describing limitations of this immigrant/native typology).

experiences.[188] Externally, the rhetoric describing group characteristics, the market distribution of labor, the opportunities for education, housing and economic advancement towards the middle of the century lifted Asian Americans above Native Hawaiians in terms of socio-economic status.[189] Each group, differently situated, was racialized differently in the context of white oligarchical control.

Within each group, class and urban/rural differences and differences in attitudes toward assimilation also meant differential sub-group racialization. Thus while most Hawaiians suffered the cultural-economic consequences of the overthrow of the Hawaiian government, some Hawaiians did well—in comparison both to other Hawaiians and to Asians. Professor Robert Stauffer describes how in the three decades following annexation of Hawai'i by the United States in 1898 some educated, Christian Hawaiians became republicans and lent political support to white oligarchy leaders.[190] According to Stauffer, one result was that urban elite Hawaiians came to occupy most government civil service positions and many government commissions and professional positions and were admitted into racially exclusive white social clubs. In contrast, Asian immigrants, denied the right to vote during that period, lacked political influence and were excluded from most government jobs, private schools and social organizations. Asians, like many rural and underclass Hawaiians, were disenfranchised and disempowered, finding their language schools closed and "their unions savagely broken and nearly all avenues of economic, political and social advancement blocked."[191]

Differential racialization and disempowerment of groups, and subgroups, historically has present effects on group identity and group claims. Describing differential effects precisely, however, is difficult. In contemporary Hawai'i, Ogbu's voluntary immigrant American versus involuntary American typology becomes less useful. As indicated by the discussion of urban Hawaiians and Asians in the 1920s and 1930s, real-world lines of distinction are less than clearly drawn. Asian Americans have no essential history or culture. Some Asians, especially from Southeast Asia, are in the United States involuntarily as refugees forced out of their homeland. Recent Asian immigrants differ greatly in culture and identity from third, fourth and fifth generation Asian Americans.[192] Many persons of Hawaiian ancestry are also of Asian ancestry. Mixed blood not only creates socio-psychological problems of identity, it creates legal problems concerning the distribution resources reserved for fifty percent blood Hawaiians.[193]

Despite problems of precise description, the concepts of differential racialization and disempowerment, when linked to postcolonial theory, foster important insights about differing current racial conditions. The vigorous Native Hawaiian sovereignty movement has illuminated the historic injustice of the overthrow of the Hawaiian nation in 1893 and the continuing harm of the land dispersal and Hawaiian culture destruction that followed. The movement has also conveyed to the people of Hawai'i the deep pain, the profound sense of cultural loss, passed from generation to generation of Native Hawaiians—a pain and sense of loss beyond the experience of most others. In doing so, it has distinguished the experiences of Na-

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188. Trask, *supra* note 2, at 1205.
189. *See generally* FUCHS *supra* note 29 (describing socio-economic changes in Hawai'i from 1900 through 1959).
190. Robert Stauffer, *Real Politics, in* HONOLULU WEEKLY, Oct. 19, 1994, at 4.
191. *Id.* at 4. *See also* HAAS, *supra* note 88, at 18.
192. *See* TAKAKI, *supra* note 79.
193. TRASK, *supra* note 93.

tive Hawaiians from those of other racialized groups in Hawai'i. It has compelled those other groups to examine the extent to which they were complicit over the last 100 years in the denigration of Hawaiians as business people, workers, teachers, students and leaders. The sovereignty movement, with its claims of self-governance and control over homelands, has also compelled other racial group members and government leaders to think seriously about rectification and reparation; to think about healing. The sovereignty movement itself speaks with a less than unified voice, and it faces both support and resistance from a gradually but steadily growing Hawaiian middle class. Some experience continuing harm from the overthrow of the Hawaiian nation and yet also accept Western values, institutions and patterns of behavior.

It is thus in light of, and not despite, complex historical group and subgroup interactions, and the power relations underlying them, that we begin to understand deeply felt beliefs about group oppression and complex claims for group justice, that we begin to understand the conflicts, claims, reparatory efforts and resistance characterizing contemporary Asian American and Native Hawaiian relations. Without historicizing contemporary inter-group power relations and grounding them in concrete particulars, racial groups facing real life inter-group conflicts and claims of injustice are likely to assume understandings of "others." Those understandings are likely to be undergirded by societally constructed racial meanings linked to essentialized, albeit often internally dissonant, group identities—for example, the Asian "opportunistic settler" and "yellow peril," the "happy Native" and virulent Hawaiian nationalist. Without attention to differential racialization in the context of both national and localized "struggles for identity and power," racial groups cannot begin to address meaningfully issues of "mutual misunderstanding and mistrust" that result in the "use of stereotypes and caricatures to demean and dehumanize" and give rise to the persistence of "racist attitudes and actions"[194]—issues of interracial justice. Without addressing foundational interracial justice issues, rooted in forms of subordination, the search by coalition builders for common ground, the calls by community leaders for "multiracial unity and cross-cultural understanding" and the claims to empowerment by racial groups "can become tools to maintain historical forms of subordination."[195]

These differential racialization and empowerment concepts, linked to aspects of postcolonial theory, thus provide a framework for inquiry into complex interracial struggles over power and identity. That framework enables us to ask meaningful questions about interracial conflict and healing because it focuses on the ways in which history is linked to current conditions and perceptions. It entails a hard acknowledgment of ways in which racial groups have harmed one another historically and continue to do so presently, sometimes redeploying oppressive structures, and ways in which those harms have contributed to contemporary interrracial tensions that impede alliances and coalition-building. That framework also enables us to ask meaningful questions because it recognizes that socio-political contexts, local and national (and sometimes international), both enliven and constrain racial groups as social actors in the construction of interracial conflicts, and that differing contexts contribute to differing group goals, self-images and historical memories and to dif-

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194. *See Asian American Resolution, supra* note 42, at 82.
195. *Id. See also* Yamamoto, *Redress, supra* note 54, at 232 (If social realities are left undisturbed, "redress and reparations could in the long term unwittingly be seduced into becoming one more means of social control that attempts to neutralize the need to strive for justice.").

ferential group power. The notion of constrained racial group agency concerning interracial conflicts that emerges from this framework both gives rise to and limits the notion of racial group responsibility for interracial healing.

IV. HEALING AND INTERRACIAL JUSTICE

As mentioned, interracial justice involves a recognition of situated group power and therefore constrained yet meaningful group agency and corresponding responsibility in the construction of racial identities and interracial conflicts. It also involves messy, shifting, continual and often localized processes of interracial healing. Both, I have argued, are predicates to racial groups' "living together peaceably and working together politically." The first and concluding sections of this Article provide a glimpse of the complexity and salience of one group's attempt to address particularized interracial harms with steps toward interracial healing.

An extended discussion of the largely undefined dynamics of interracial healing is beyond the scope of this Article. Indeed, myriad questions concerning efficacy and authority surround notions of healing among racial groups: Is meaningful healing linked to individual psyches or to the public rearticulation of group images? Which forms of healing repair surface wounds while leaving oppressive social structures unaddressed? Who within a group, or within a subgroup of a group, decides which healing steps are appropriate and sufficient, and what are the risks of leadership cooptation? These and related questions require careful attention. I endeavor here only to suggest that interracial healing approaches must be multidisciplinary and guided by antisubordination principles[196] and to sketch in broad terms potentially relevant concepts of healing drawn from several disciplines. Those disciplines include law, theology, social psychology, political theory and indigenous practices. I provide this sketch as a starting point for further inquiry.

Law does not directly address healing. The actual healing of injured bodies, minds and spirits and the repairing of broken group relationships generally lie beyond the law's reach. Law instead addresses healing indirectly through the multifaceted idea of justice. Some conceive of legal justice in a manner that ignores healing completely. For them, legal justice simply means dispute resolution; the disposition of claims according to substantive norms through fair process.[197] This version of legal justice tends to turn a blind eye to the social and psychological impacts of dispute resolution outcomes and procedures on the participants and their communities.

For others, legal justice is something more than dispute resolution. It is constitutive of who we are as a people. This understanding of justice underlies Professor James Boyd White's suggestion that law "should take as its most central question what kind of community we should be."[198] According to this communitarian view, law views justice in the construction of moral communities.[199] For still others, justice may draw upon the law but is not dependent upon it.[200] Reconciliation between disputants can emerge from "[c]ommunication, compromise, mediation, bargaining, leadership, institutional design," grounded in "virtues of openness, gen-

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196. See supra note 8.
197. STEPHEN LANDSMAN, ADVERSARIAL JUSTICE (1987).
198. JAMES B. WHITE, HERACLES' BOW 42 (1985).
199. PHILIP SELZNICK, THE MORAL COMMONWEALTH: SOCIAL THEORY AND THE PROMISE OF COMMUNITY 434 (1992).
200. Id. at 435.

erosity, and wisdom."[201] As Professor Philip Selznik observes, these "virtues are
not. . .unique to law; they may even be undermined by law."[202] What is significant
from this perspective are the processes through which law engenders rather than
inhibits community building.[203]

Debates about these and other approaches to justice continue. I will not en-
gage them further other than to observe that from most perspectives justice in
America is rooted in adversarial notions of rights, duties, breaches, injuries and rem-
edies. For purposes of this section's brief overview, legal justice can be viewed in
three dimensions: procedure, substantive norms and remedies. Procedurally, justice
is commonly defined in terms of due process—the opportunity to be heard, to
participate, to be treated with dignity.[204] Substantively, and relevant to the discus-
sion of interracial justice, legal justice norms focus on equality. The meaning of
equality, of course, is sharply contested—one meaning is formal equality (or color-
blindness), another meaning is equality-of-result.[205] Those advancing an equality-
of-result constitutional perspective see an "anti-subjugation" or "anti-caste" principle
in the Fourteenth Amendment's Equal Protection clause.[206] This principle ad-
dresses group disadvantage[207] in race relations and entails historical and social struc-
tural analyses of inter-group interactions. Remedially, law offers primarily the
concept of compensation—paying to compensate for physical and emotional as well
as economic loss. It also offers in limited fashion the concept of prohibition—
enjoining specific institutional acts where monetary compensation is deemed
inadequate.

These dimensions of legal justice—procedure (encompassing participation and
dignity), equality norms (including an anti-subjugation principle) and remedies (pri-
marily compensation)—are broadly recited here without attention to complexity.
They provide an important beginning point for discussion of healing among racial
groups. Even as a beginning point, however, these dimensions are limited. A brief
examination of remedial options reveals some of the limitations. Legal justice's pri-
mary remedial emphasis on monetary compensation focuses on material redistribu-
tion. Its secondary emphasis on injunctive relief focuses on institutional reordering.
What these remedial concepts overlook is actual healing for harmed individuals and
groups. They miss the repairing of individual bodies, minds and spirits and, more
important, the restoration of broken group relationships.

In widely varying ways, theology, social psychology, political theory and indig-
enous practices address healing of individuals and groups. Significantly, scholarship
on legal justice rarely refers to these disciplines and, conversely, scholarship on heal-
ing within these disciplines rarely refers to law.[208] Each of these disciplines is inter-
nally diverse and differs from the others. Even commonalities within disciplines

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201. *Id.*
202. *Id.*
203. *Id.* at 445.
204. *See* LANDSMAN, *supra* note 197.
205. Crenshaw, *supra* note 140 (contrasting process equality with substantive equality in constitutional
law).
206. TRIBE, *supra* note 20, at 1515 (describing an anti-subjugation group-based principle underlying
Supreme Court decisions); Paul R. Dimond, *The Anti-Caste Principle: Toward a Constitutional Standard for
Review of Race Cases,* 30 WAYNE L. REV. 1 (1993) (ascertaining an anti-caste constitutional principle for race
cases).
207. Fiss, *supra* note 20, at 108.
208. One outstanding exception is the work on procedural justice. *See* ALLAN E. LIND & TOM R.
TYLER, THE SOCIAL PSYCHOLOGY OF PROCEDURAL JUSTICE (1988). Another is on equal protection and the

play out in differing ways according to cultural settings. A broad description of healing approaches within each discipline is nevertheless useful to a preliminary discussion about deepening notions of legal justice to encompass possibilities of interracial healing.

Theology offers the concept of reconciliation through justice—to atone for wrongs perpetrated, in an effort to reunite body and soul. Indeed, for prophetic theologians, justice is a precondition to peaceable relations. As the Christian clergy authors of the 1988 Kairos Covenant expressed in their opposition to South African apartheid: "there can be no reconciliation, no genuine peace without justice."[209] The African American "Million Man March" on Washington D.C. in October, 1995, embraced atonement as its theme. The march endeavored to reconnect, or reunify, African American men with each other, with families and communities. For the March, Christian Protestant and Islamic theologians located reunification in redemption and linked redemption to justice—the acknowledgement of brokenness and harm, repentance and acts of contrition.[210]

Consistent with the notion of inter-group reconciliation through justice, Reverend Fumitaka Matsuoka posits the "confessional character of community building."[211] Reverend Matsuoka observes the connection between confession and community in the Asian American Churches and Hawai'i Conference resolutions of apology to Native Hawaiians, discussed in Section II.

> The confessional character of community building meant an acknowledgment on the part of the church members of their own deep-seated prejudice and distrust across ethnic, generational, and class lines. Only when their divisions were confessed in light of faith did the church [members] become open to a new way of relating with each other, a new way of community building.[212]

Zen Buddhism also locates reunification in reconciliation, although in a different fashion. The ultimate state of being is satori, or the state of enlightenment in which people and nature are experienced as one and in which conflicts are acknowledged and released. Confession to guilt and acknowledgement of fault, however, are unnecessary. Conflicts are released, and a state of Zen-emptiness is attained, through understandings reached in the process of mutual listening and empathy. Zen reconciliation is "to understand both sides, to go to one side and describe the suffering being endured by the other side, and then to the other side and describe the suffering being endured by the first side."[213]

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psychology of racism. *See* Charles Lawrence, III, *The Id, the Ego and Equal Protection: Reckoning with Unconscious Racism*, 39 STAN. L. REV. 317 (1987).

209. THE KAIROS COVENANT 16 (Willis H. Logan ed. 1988) (discussing prophetic theology in relation to South African apartheid); *see generally* SPENCER PERKINS & CHRIS RICE, MORE THAN EQUALS: RACIAL HEALING FOR THE SAKE OF THE GOSPEL (1993).

210. Louis Freedberg et al., *Black Men Heed Unity Call*, SAN FRANCISCO CHRONICLE, Oct. 17, 1995, at A-11.

211. FUMITAKA MATSUOKA, OUT OF SILENCE: EMERGING THEMES IN ASIAN AMERICAN CHURCHES 131 (1995). *See also* Sang Hyun Lee, *Pilgrimage and Home in the Wilderness of Marginality: Symbols and Context*, PRINCETON SEMINARY BULLETIN 219 (1995).

212. *Id.* at 131.

213. Joseph V. Montville, *The Healing Function in Political Conflict Resolution, in* CONFLICT RESOLUTION THEORY AND PRACTICE: INTEGRATION AND APPLICATION 112, 115 (Dennis Sandole & Hugo Van der Merwe eds., 1993) (quoting Vietnamese Zen Buddhist master Thich Nhat Hanh); *see generally* SILVIO E. FILLIPALDI, ZEN-MIND, CHRISTIAN-MIND, EMPTY MIND, J. ECUM. STUDIES 69-84 (Winter 1982) (comparing Zen enlightenment with the Christian process of repentance and forgiveness); DAISET T. SUZUKI, ZEN AND JAPANESE CULTURE (1959).

Words alone, of course, even when understood, are unlikely to heal deep inter-group wounds. The Torah enjoins long-disenfranchised Jews to do justice not only by swearing by God but also by "removing your abominations" and "loving the stranger," and prophetic theology warns against talk of peace or reconciliation with-out genuine justice. They caution against false claims of unity.[214]

While theology offers approaches to reunification and reconciliation, psychol-ogy offers catharsis—to confront externally induced emotional trauma as a founda-tion for releasing it. Psychological concepts of healing embrace understanding and acknowledgment and forgiveness as first steps toward renewed emotional health of individuals. These principles of personal psychology are employed by social psychol-ogists to address inter-group healing. Questions addressed include how historical memories of pain and loss are continually re-formed by social context and how that re-formation process contributes to present-day conflicts.[215] Political theory ad-dresses the inter-group injury and healing from a different angle. It focuses not on relationships but on democratic processes. It offers the concept of reparations—to repair societal harm by one entity, usually a government, inflicted directly upon another, usually a marginalized social group.[216] Healing through reparations can be seen as rooted in democratic notions of participation in the social, economic and political life of the polity. The breach in the polity must be repaired by acknowledg-ing and including those wrongfully excluded.[217]

John Dawson and Joseph Montville, in separate works, both draw upon Chris-tian theology, Zen Buddhism, social psychology and political theory to offer "thera-peutic" approaches to healing for social groups.[218] For Dawson, acknowledgment of historical group harms, sincere apology and rectifying action facilitate healing of inter-group wounds and provide a path toward meaningful change in relationships. For Montville, prospects of healing interracial and inter-religious wounds depend upon "a process of transactional contrition and forgiveness between aggressors and victims."[219] This process entails joint analysis of "the history of the conflict, recog-nition of injustices and resulting historic wounds, and acceptance of moral responsi-bility."[220] Inter-group reconciliation emerges from this process through the "establishment of a new relationship based on mutual acceptance and reasonable trust."[221]

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214. HEBREW SCRIPTURES, JEREMIAH 3 AND DEUTERONOMY 10, NEW REVISED STANDARD VERSION (1989); MICHAEL LERNER & CORNEL WEST, JEWS AND BLACKS 9 (1995); THE KAIROS COVENANT, *supra* note 209; JAMES CONE, BLACK THEOLOGY AND BLACK POWER (1969).

215. See generally DAVID M. NOER, HEALING THE WOUNDS 38 (1993); RONALD J. FISHER, THE SO-CIAL PSYCHOLOGY OF INTERGROUP AND INTERNATIONAL CONFLICT RESOLUTION (1990); DAVID S. AUG-SBURGER, CONFLICT MEDIATION ACROSS CULTURES 259 (1992) (describing reconciliation and the "many faces of forgiveness" in differing cultural settings); IWONA IRWIN-ZARECKA, FRAMES OF REMEMBRANCE: THE DYNAMICS OF COLLECTIVE MEMORY (1994).

216. See Hiroshi Wagatsuma & Arthur Rosett, *The Implications of Apology: Law and Culture in Japan and the United States*, 20 LAW & SOC'Y REV. 461 (1986).

217. See generally ARNOLD SCHUCTER, REPARATIONS: THE BLACK MANIFESTO AND ITS CHALLENGE TO WHITE AMERICA (1970); Yamamoto, *Redress, supra* note 54.

218. JOHN DAWSON, HEALING AMERICA'S WOUNDS (1995); Montville, *supra* note 213. As mentioned, each of these disciplines is complex, with numerous sub-disciplines and myriad approaches to healing issues. My discussion is cast in the broadest, most general terms to lay a preliminary foundation for further inquiry. It is not meant to exclude or diminish by omission.

219. Montville, *supra* note 213, at 112.

220. *Id.*

221. *Id.*

Finally, indigenous healing practices provide related yet unique insight into inter-group healing. For example, indigenous Hawaiians engaged and continue to engage in a process of "ho'oponopono" to heal physical and psychological wounds arising out of interpersonal or inter-group conflicts.[222] The process is "complex and potentially lengthy. . .[and] includes prayer, statement of the problem, discussion, confession of wrongdoing, restitution when necessary, forgiveness and release."[223] It is described as a therapeutic technique that "focuses on the past[,] uncovers thoughts, feelings and actions that led to conflict,"[224] in order to loosen ("kala") and cut ("oki") the negative entanglements ("hihia") of those involved and their communities.[225]

Three commonalities emerge generally from the diverse disciplines of theology, social psychology, political theory and indigenous practices, commonalities relevant to interracial justice. The first is the notion that healing, whether by individual or group, entails some combination of acknowledgment of the humanity of the Other and of the sources of conflict (including the historical roots of present conflict), acceptance of appropriate responsibility (often in the form of an apology) and material change (structural alteration of the relationship). The second is the notion that healing of wounds from perceived wrongful acts, while often messy and incomplete, is a foundation for future communal, or at least cooperative, action. The third commonality is that all of these approaches to intergroup healing incorporate legal concepts only indirectly and move beyond formal notions of legal justice. This omission may not be particularly glaring in light of law's apparent reciprocal blindness to these disciplines in fashioning its ideas of justice. As mentioned, however, law and notions of legal justice provide a potentially powerful base for constructing merged theoretical and practical, or praxis, approaches to inter-group healing as well as interracial justice. Further inquiry is warranted into what each discipline offers and how the disciplines, including law, connect.[226] I have sketched out the foregoing approaches to inter-group healing for that purpose.

V. Concluding Thoughts

By the year 2000 the familiar characterization of black versus white will no longer describe or explain American race relations. America in the twenty-first century will in crucial respects be a nation of minorities.[227] This demographic change

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222. See Stephen Boggs & Malcolm Naea Chun, *Ho'oponopono: A Hawaiian Method of Solving Interpersonal Problems* 123, in CONFLICT DISCOURSE IN PACIFIC SOCIETIES (Karen Watson-Gegeo & Geoffrey White eds., 1990). *See also* Marg Huber, *Mediation Around the Medicine Wheel,* 10 MEDIATION Q. 355 (1993) (describing Native American medicine wheel as a model for contemporary group healing).

223. E. VICTORIA SHOOK, HO OPONOPONO: CONTEMPORARY USES OF A HAWAIIAN PROBLEM-SOLVING PROCESS 11 (1985).

224. *Id.* at 46.

225. Karen Ito, *Ho'oponopono, To Make Right: Hawaiian Conflict Resolution and Metaphor in the Construction of a Family Therapy,* 9 CULTURE, MEDICINE & PSYCHIATRY 201, 201 (1989).

226. For further development of these ideas, see ERIC K. YAMAMOTO, RACE, CULTURE AND RESPONSIBILITY: INTERRACIAL JUSTICE IN POST-CIVIL RIGHTS AMERICA (forthcoming New York University Press).

227. Deborah Ramirez summarizes census data and concludes that in California, where nonwhites now constitute approximately 43 percent of the population, "non-Latino whites could well be a minority the year 2000." Deborah Ramirez, *Multicultural Empowerment: It's Not Just Black and White Anymore,* 47 STAN. L. REV. 957, 961 (1995). She also observes that other states, including Texas (now 39 percent nonwhites), Florida (27 percent) and New York (31 percent), "will likely follow." *Id. See also* Bill Hing, *Beyond the Rhetoric of Assimilation and Cultural Pluralism: Addressing the Tension of Separatism and Conflict in an Immigration-Driven Multiracial Society,* 81 CAL. L. REV. 863, 960 (1993). By "nation of minorities," I mean

necessitates a change in how we think about race relations, and how we think about racial justice.

Contemporary scholarship on coalition-building has begun to examine relations not just between whites and nonwhites, but among nonwhite racial groups. It describes the cultural patterns or political and economic interests of various groups and then searches for "common ground." By focusing on how these group interests and cultural patterns are situated in and determined by a predominantly white-constructed socio-economic structure, however, that scholarship tends to present whiteness as the singular agent of nonwhite conflict, leaving nonwhite racial communities free of agency—and responsibility.

I began this Article by examining certain Asian American church groups' proposed resolution of apology to and redress for Native Hawaiians. That resolution acknowledged how many Asians "benefitted socially and economically [from] the illegal overthrow" of the sovereign Hawaiian nation while "disregarding the destruction of Native Hawaiian culture and the struggles" of Hawai'i's indigenous people.[228] The resolution's stated goal was reconciliation and justice in light of "a particular dynamic. . . between Native Hawaiians and Asian Americans, rooted in mutual misunderstanding and mistrust," resulting in the use of "stereotypes and caricatures to demean and dehumanize."[229] I explored the many volatile, complex responses to the resolution, including sharp questions about the resolution's use of the racial categories Asian American and Native Hawaiian.

I then offered the framework of a theory of inter-group alliances based on the concept of "interracial justice." Interracial justice acknowledges historical white dominance and contemporary white rhetorical, institutional and economic influence while at the same time decentering whiteness as the singular referent for determining racial identities and interracial relations. It thus examines the "constrained" yet meaningful agency of nonwhite groups in terms of interracial conflict and healing. Within this framework, I suggested that interracial justice entails a hard acknowledgment of the extent to which nonwhite racial groups situationally have oppressed and continue to oppress one another, and a commitment to affirmative efforts to redress past and continuing harm. A theory of interracial justice, grounded on legal and ethical anti-subordination principles and informed by postcolonial and racialization theories,[230] provides a foundational component to racial group efforts toward transforming "power over" one another into "power to" cooperate and coexist, toward living together peaceably and working together politically.[231]

In advancing these ideas I acknowledge the possibility, or even likelihood, of their misappropriation. The plethora of anti-affirmative action initiatives in Congress, the courts and voting booths are one indication. A movement gaining considerable popular steam blames racial groups for all of their own ills as well as for most of society's economic and racial problems.[232] In this climate, a discussion about

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demographically, not necessarily democratically. Power-sharing rarely is voluntary, and, as Hawai'i history indicates, a numerical minority can exert dominant political, economic and social influence.

228. *Asian American Resolution, supra* note 42, at 82.

229. *Id.*

230. *See supra* Section IIIC for discussion of post-colonial racialization.

231. THOMAS WHARTENBERG, THE FORMS OF POWER 5-6 (1990) (using the term "situated power" to "emphasize. . .that a power relationship is constituted by a broad social context," and distinguishing "power over" others from "power to" define oneself and influence others); Harris, *supra* note 167, at 781.

232. *See generally* Hing, *supra* note 227, at 870-874 (describing "race-based" and "culture-based" objections to immigration primarily of Latinos and Asians which attribute many societal social and economic problems to immigrant groups of color).

interracial justice as a basis for coalition-building, which addresses how racial groups sometimes oppress each other, can be easily yanked out of context. That discussion can be misused in at least two ways. First, in light of neoconservative ethnicity theory, it can be misused to overstate the extent of racial group agency in the construction of group identity, the elevation of group socio-economic status and the forging of inter-group relations. I have anticipated this possible misusage and thus have addressed the concept of racial group agency as agency "constrained" by dominant rhetorical, institutional and economic powers. Second, in light of current anti-affirmative action initiatives, the discussion can be misused to absolve whites of responsibility for continuing structural subordination of racial groups and to recast whites as primary "victims" of racism. I have addressed this possible misusage by acknowledging continuing white influence and responsibility[233] in the construction of interracial group conflicts while nevertheless focusing discussion on interracial group dynamics.

Despite these attempts to anticipate possible misappropriation the risk persists. I also acknowledge concern that discussion of interracial conflict, even as a predicate to interracial healing, can be misused simply to highlight divisions among racial groups. I have proceeded nonetheless to address racial group agency and interracial group relations because of the significance of those issues to "living together peaceably and working together politically" and because of the relative scholarly silence in the area.

A. Relevance of Hawai'i

Some final questions arise. Why examine Asian Americans and Native Hawaiians? Why look at race in Hawai'i? I have not, as have others, described Hawai'i as a race relations model. This "race relations model" label carries two dubious meanings. First, as a descriptive "model *of* race relations," it falsely essentializes a complex interplay of institutions, cultures and people, glossing over myriad subtle and overt racial conflicts. Second, as a guidance "model *for* race relations," it unduly valorizes Hawai'i, in effect saying "be like Hawai'i" without carefully teasing out complexities of race relations and explaining the relevance of one locale's experiences to another's. I thus do not look at Hawai'i as a model of, or for, race relations.

I do nevertheless find the dynamics of Asian American and Native Hawaiian relations in Hawai'i to be particularly relevant to more generalized inquiry about interracial justice. Despite many important differences, Hawai'i now and several

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233. That influence is illustrated poignantly by the white judge's sentencing statements in People v. Soon Ja Du, 5 Cal. App.4th 822, 7 Cal. Rptr.2d 177 (1992). In sentencing Korean American storekeeper Soon Ja Du to probation for the shooting-death of African American teen Latasha Harlans following a store scuffle over orange juice, the white judge described Du in glowing terms, referring to Korean Americans' industry and honesty, and described Harlans darkly, referring to the threat gangs posed to storekeepers. Those racialized descriptions, however, completely mischaracterized the actual participants and their interaction. The judge's statements illuminate how institutions inscribe onto law mainstream stereotypic views of Asian Americans and African Americans—views that exacerbate inter-group conflict by creating opposing, value-laden images of "model" Asians vis a vis "dangerous" Blacks. *See* Neil Gotanda, *Reproducing the Model Minority Stereotype: Judge Joyce Karlin's Sentencing Colloquy in People v. Soon Ja Du*, in REVIEWING ASIAN AMERICA (Wendy L. Ng et al. eds., 1995). White rhetorical and institutional influence is also illustrated by the recent debate about the exclusion of Asian Americans in university affirmative action programs. That debate was transformed by neoconservative whites from a discussion about harm to excluded Asian Americans to a model minority justification for eliminating race-based affirmative action altogether. *See* DANA Y. TAKAGI, THE RETREAT FROM RACE: ASIAN-AMERICAN ADMISSIONS AND RACIAL POLITICS (1992).

parts of the United States of the near future bear a critical resemblance in terms of racial demographics. Asian and Asian Americans (including many recent immigrants from Southeast Asia) comprise a politically and economically significant portion of Hawai'i's population.[234] They are of diverse cultures and disparate socioeconomic classes and have multiple identities. Documented and undocumented workers from Mexico are among the state's fastest growing immigrant labor groups. Hawai'i's indigenous peoples are asserting historically-rooted claims to land and self-governance and are rapidly becoming players in the state economy.[235] African Americans, although small in numbers, continue to suffer overt and structural discrimination.[236] Whites are the largest single group. Measured against all nonwhite groups however, they are a numerical minority and no longer dominate elective political offices. They do continue to exert dominant control over private business and media.[237] The Hawai'i economy has transformed from an agriculture/military economy to one that is service-oriented with many lower-end jobs filled by recent immigrants.[238] Group stereotyping addresses not only racial characteristics but also social structural power. For example, an anti-Asian American "backlash" has developed from a "mythology" of Asian American, particularly Japanese American, economic and political dominance.[239] While Japanese Americans are highly visible in elective offices and are over-represented in public sector employment,[240] "contrary to popular misconception," they "do not have the highest occupational status. . .[and are] especially absent in terms of corporate power."[241]

Predictions about California demographics for the year 2020 bear important similarities and differences to Hawai'i's current demographics, as do anticipated demographic changes throughout the country.[242] One common dimension of changing demographics across America is the salience of relations *among* racial groups generally and issues of interracial conflict and healing particularly—issues of interracial justice.[243]

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234. Okamura, *supra* note 91, at 162 (reciting population statistics of Japanese (22.3%), Filipino (15.2%), Chinese (6.2%), Korean (2.2%), Vietnamese (0.5%) and other Southeast Asians constituting the remainder).

235. See TRASK, *supra* note 93, at 89-103 (describing the Native Nationalism movement in Hawaii).

236. HAAS, *supra* note 88, at 248 (1980 study of whether blatant discrimination of blacks was occuring at Waikiki discos found that among Asians, whites, and blacks frequenting those establishments, only blacks experienced systematic turning away.)

237. Okamura, *supra* note 91, at 172-73.

238. HAAS, *supra* note 88, at 24.

239. Okamura, *supra* note 91, at 172, citing Franklin Odo, *"The Rise and Fall of the Nisei,* HAWAI'I HERALD, August-November 1984 (six part series) (describing this "mythology").

240. Public sector employment became one of the few arenas for economic advancement for Japanese Americans in Hawai'i prior to statehood because racial exclusionary hiring policies of most private businesses. HAAS, *supra* note 88, at 25 (explaining that Filipinos and whites who wanted public sector jobs found that, "[b]ecause of earlier efforts of private sector employers to hire Japanese only in subordinate roles, government jobs were already filled disproportionately by Japanese-Americans.").

241. Okamura, *supra* note 91, at 172. Whites and Chinese Americans have the highest occupational status "based on their substantial overrepresentation in professional, management and executive positions." *Id.* Japanese Americans "continue to be well-represented in blue-collar work." *Id.*

242. See *generally* Hing, *supra* note 4 (discussing changing racial demographics in California and nationally).

243. Professor Glenn Omatsu frames one such interracial justice issue for Asian Americans and other racial groups. His questions speak to the heart of the Asian American churches' preferred resolution of apology and redress to Native Hawaiians. His questions also speak to the need for historicizing current relations among racial groups, and understanding how groups are thereby differentially racialized and empowered, to grasp the justice issues among them. And finally, his questions imply a meaningful yet constrained degree of group agency in the shaping of racial group identity and the structure of inter-group

B. Apology Resolution Revisited

For the Asian American churches, discussed in Section II, reconciliation among the many racially diverse churches of the Hawai'i Conference through an apology to and redress for Native Hawaiians emerged as a localized issue of interracial justice. Racial misunderstanding and sometimes antipathy among member churches needed to be acknowledged. Only when present pain rooted in past harms was addressed and, to the extent appropriate, redressed could there be justice. And only when there was justice could there be reconciliation and a foundation for genuine hope and cooperation. As discussed, the Asian American churches' proposed resolution of apology to Native Hawaiians and accompanying redress initially generated heated debate within and beyond those churches. That debate, often challenging the racial categories and racial politics of the resolution itself, ranged from strong endorsement to ringing denouncement. The process was messy and conflictual. The participants at the United Church of Christ Hawai'i Conference's annual meeting discussed earnestly but could not agree upon what happened historically, who was involved, who was culpable, what redress if any was appropriate.

The Asian American churches' resolution was heard along with a broader resolution calling for an apology and redress from the multiracial Hawai'i Conference itself. While observing the extended discussions, I sensed that nothing productive would result. When it appeared that the Conference polity could reach no consensus on appropriate action, Reverend Kekapa Lee, a Native Hawaiian-Chinese American pastor of a small church on Maui, stood and spoke: "I would like to ask all those willing Hawaiians to please stand."[244] A dozen or so of the 400 people in the room stood. Lee continued,

> Those of us who are standing are Hawaiian people—people who lived in this archipelago called Hawai'i for generations. . . .Some of us are hurt deeply by what took place 100 years ago. Some of us have not a consensus on the role of the [church in the overthrow of the Hawaiian nation]. That is not the point. [T]he call for apology. . . .[is] to sever this pilikia [troubled feeling] that we might move on. We want to put this behind and we call upon all of you who are not Hawaiian to kokua [cooperate]—even though some of us Hawaiians are not totally worth this.[245]

Another thirty Hawaiians rose, slowly. Lee spoke again.

> And I have a very heavy, heavy, heavy heart because I don't understand why an apology is such a big thing. . . .Some of us are hurting and in pain because of this, and we're asking your support and kokua. . .because there are many things that

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relations and thus call for thoughtful and continual rearticulation of Asian American identity as a foundational component of inter-group justice and coalitional action. Omatsu asks:

> [As Asian Americans work for our own empowerment] [w]ill we fight only for ourselves, or will we embrace the concerns of all oppressed peoples? Will we overcome our own oppression and help to create a new society, or will we become a new exploiter group in the present American hierarchy of inequality? Will we define our goal of empowerment solely in terms of individual advancement for a few, or as the collective liberation for all people?

Glenn Omatsu, The 'Four Prisons' and the Movements of Liberation: Asian American Activism from the 1960s to the 1990s, in THE STATE OF ASIAN AMERICA: ACTIVISM AND RESISTANCE IN THE 1990s 66 (Karin Aguilar-San Juan ed., 1994). See also Elaine H. Kim, Between Black and White: An Interview with Bong Hwan Kim, in THE STATE OF ASIAN AMERICA: ACTIVISM AND RESISTANCE IN THE 1990s 71, 93 (Karin Aguilar-San Juan ed., 1994) ("What is needed now is a new kind of Asian Pacific American coalition, a kind that asserts Asian Pacific identities as political strategy without better established or larger groups controlling the agenda by leveling the differences.").

244. Reverend Kekapa Lee, supra note 42, at 11.

245. Id.

face our church and our community as Hawaiians and we want to move on but feel that this apology is so important.[246]

While Reverend Lee continued, many more Hawaiians rose. At first sixty, then eighty, finally perhaps one hundred; almost all the Hawaiians in the polity, including those who earlier spoke against the resolution, stood. The emotion was palpable. It was only at that moment, I believe, following days of fractious discussion, that most of the non-Hawaiians there (including many White and Asian Americans) grasped the depth of the continuing pain experienced by Hawaiians within their own Conference. It was only then that they appeared to begin to understand how their refusal to acknowledge that present pain and its myriad historical sources erected huge barriers between groups within the Conference, barriers to addressing collectively the "many things that face our church and our community."[247] It was then that many of the earlier disagreements emerged in a new light. The members of the Conference polity then by consensus adopted an amended version of the broader resolution directing the Conference to apologize to Native Hawaiians for the Conference's predecessor's participation in the overthrow of the Hawaiian nation and to begin a discussion about reparations.

A difficult year-long self-study followed among church members and leaders within the Hawai'i Conference. Disagreements continued about the extent of historical complicity of the Conference's predecessor in the overthrow of the Hawaiian nation and about the appropriateness of reparations. In 1994, self-study culminated in a solemn apology service and ceremony and with a commitment by the Conference to continue discussions about land reparations. Those discussions are ongoing.[248] In 1995, the national corporate board of the United Church of Christ, in furtherance of its own apology and that of the Hawai'i Conference, despite tight financial times, offered Native Hawaiians $1.25 million in the form of an educational trust as partial reparations.[249]

Has some degree, or form, of interracial justice occurred? And if so, has it contributed to racial groups better "living together peaceably and working together politically"? There are, of course, no clear answers, just more questions. What are the likely effects of the apology, the partial reparations, the Conference resolution, the Asian American resolution and the tumultuous processes surrounding them? What, if anything, will have changed in terms of individual feelings, group relations and church structure? In the larger community and throughout the state, how will images or representations of interracial relations have changed, if at all? Is what appears to be interracial healing meaningful for Native Hawaiians, and if so, will it be lasting? How will participation in the apology/reparation process have changed the Asian Americans involved and Asian Americans generally? These questions of interracial justice merge into what may be a task of paramount importance for communities of color in the 21st century: rethinking alliances.

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246. *Id.*
247. *Id.*
248. Interview with Reverend Dr. Wallace Ryan-Kuriowa, *supra* note 43.
249. *Church Setting Up Foundation for Hawaiians*, HONOLULU ADVERTISER, June 10, 1995 at A-1.