

THE "GREAT MAHELE" AND OTHER ACTS OF CULTURAL GENOCIDE*

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A resolution of United Nations General Assembly in New York (45/146, 18 Dec. 1990) proclaimed 1993, THE YEAR FOR THE WORLD'S INDIGENOUS PEOPLE, and the decade of the 1990s, the end of colonialism throughout the world. Recognition of the special needs ^{and the human rights} of Indigenous People has been a long time coming! It will be, I fear, even longer before anything substantive is done about them.

Now that 1993 is here, and January 17, the 100th anniversary of the illegal taking of the government of the Hawaiian people, has come and gone, it seems appropriate to take a close look at some of the wrongs that have been and continue to be visited on the Indigenous People of Hawai'i, Kanaka Maoli Hawai'i, ^{the} ~~who~~ first occupied ^{vs of} these islands nearly two thousand years ago.

There may be some among us who are comfortable with the status quo, and who perhaps feel somewhat paranoid whenever Hawaiians take steps toward having these wrongs corrected. Perhaps there are even some who believe that such efforts are "communist inspired." They may even categorize as "stale crap" the long list of frequently mentioned wrongs. Denial, denial, denial is what often happens when a comfortable member of the dominant colonial society is first faced with the damaging deeds that

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Revised

deprive the indigenous peoples of their rights. The mindset of the colonizer forces the refusal to deal adequately with the charges. Let us agree today that we are now several generations separated from those original wrong-doers, and that an investigation of the facts of that history--this time from the point of view of those against whom the wrongs were committed--is long overdue. Perpetuation of these wrongs must end. Many changes must be made. Then, one of the next steps is, of course, restitution. After more than a hundred years of wrongs, a mere apology is quite inadequate.

We already know, to some extent, what impact events in the late 18th and early 19th centuries had on Kanaka Maoli. The introduction of venereal diseases, beginning with Captain Cook's visit, was devastating to the Hawaiian population (Kuykendall 1938: 14-15). We already know what effect these diseases had on an unprotected indigenous population. Not only did youths and adults die before their time, but the next generation failed to materialize. Births fell off drastically.

Then, there were the traders who used rum and other strong alcoholic beverages overly generously to help them manipulate the chiefs in order to get whatever they wanted from them (Arago 1823:125). Epidemics of many foreign diseases swept through these islands, reducing the surviving population greatly, perhaps by half by 1810, and there were many more to come (Schmitt 1968:42). Hawaiian historian David Malo wrote about the epidemic that struck the people in 1804:

...Kamehameha sailed for Oahu and the pestilence in truth made its appearance, ranging from Hawaii to Kauai. A vast number of people died and the name okuu was applied to it (Malo 1951:245-246).

In another publication Malo wrote:

In the reign of Kamehameha, from the time I was born until I was nine years old, the pestilence, (mai ahulau,) visited the Hawaiian islands, and the majority (ka pau nui ana) of the people from Hawaii to Niihau, died (Malo 1839:125).

Hawaiian historial Samuel K. Kamakau described the tragedy at some length: ...the pestilence appeared called 'Oku'u. It was a very virulent pestilence, and those who contracted it died quickly. A person on the highway would die before he could reach home. One might go for food and water and die so suddenly that those at home did not know what had happened. The body turned black at death. A few died a lingering death, but never longer than twenty-four hours; if they were able to hold out for a day they had a fair chance to live. Those who lived generally lost their hair, hence the illness was called "Head stripped bare" (Po'o-kole). Kamehameha contracted the disease, but managed to live through it. His counselors all died, and many of the chiefs and their families....When Kamehameha heard that Ke'e-au-moku was dying he went to see him and wept over him with deep affection; and all the chiefs wept with him (Kamakau 1961:189).

By the first missionary census in the early 1830s there were approximately 130,000 Hawaiians left. This is less than a third of Capt. King's original estimate of 400,000 (Schmitt 1968:42). If a larger population is used as the 1778 base, for example, Stannard's 800,000 estimate, then the devastation visited on the Kanaka Maoli Hawai'i in this early period of contact is difficult, if not impossible to imagine. It is difficult to comprehend the physical, social and psychological impact that a population drop from 800,000 to 130,000 in approximately 50 years would have had (Stannard 1989).

Woven into this tragic tapestry of the early years of contact between the Kanaka Maoli and the agents of Western culture was the greed of the Western traders for the profits they made by selling Hawaiian sandalwood in China. Offering items of little value for the valuable wood, the Western traders, most of them American, managed to cause the destruction of the sandalwood forests of the Islands in just a few short years.

As Jacques Arago wrote:

Commerce has attracted to this place some Americans, who, in the hope of speedily making their fortunes, established themselves here several years ago. I cannot say that they carry on any regular trade here, but rather contrabond: they can obtain whatever they want at so cheap a rate. In the morning they take half a dozen bottles of wine to the Governor, and the good soul is soon stretched at their feet: they make presents of a few hatchets and muskets to the principal chiefs; all the rest of the population are then quite at the disposal of these gentlemen (1823:125).

In the process of enriching the foreign traders, Kanaka Maoli Hawai'i spent days, weeks, and even months in the damp cold upland forests cutting sandalwood trees and packing the wood on their backs to the shoreline to be loaded on the trading ships. In his *Journal of a Tour around Hawai'i Island*, Rev. William Ellis gave us an excellent description of Kanaka Maoli walking in long lines from the mountains at Hilo, Waipi'o Valley and Kawaihae carrying sandalwood to the seashore (1963:214-215; 261; 286-287).

Ellis wrote about his encounter with the sandalwood trade while on his journey from Ola'a to Waiakea above Hilo on Hawai'i Island:

During the same journey we overtook Maaro, chief of Waiakea, and three or four hundred people, returning with sandal wood, which they had been cutting in the mountains. Each man carried two or

three pieces, from four to six feet long, and about three inches in diameter. The bark and sap had been chipped off with small adzes, and the wood appeared lighter in colour than what is usually sold at Oahu, probably from its having been but recently cut down.

The sandal wood is the same as in the East Indies, and is probably the *santalum album*. It is a tolerably heavy and solid wood, and after the sap, or part next the bark, is taken off, is of a light yellow or brown colour, containing a quantity of aromatic oil. Although a plant of slow growth, it is found in abundance in all the mountainous parts of the Sandwich Islands, and is cut in great quantities by the natives, as it constitutes their principal article of exportation.

It is brought down to the beach in pieces from a foot to eighteen inches in diameter, and six or eight feet long, to small sticks not more than an inch thick and a foot and a half long.

It is sold by weight, and the merchants, who exchange for it articles of European or Chinese manufacture, take it to the Canton market, where it is bought by the Chinese for the purpose of preparing incense to burn in their idol temples (Ellis 1963:214-215).

When Rev. Ellis reached Waipi'o Valley in the Hamakua District of Hawai'i Island, he reported the following:

During the afternoon great numbers of men belonging to the valley returned with loads of sandal wood, which they had been cutting in the neighbouring mountains. The wood was much superior to that which we had seen at Waiakea, being high coloured, strongly scented, and sometimes in large pieces nearly a foot in diameter (Ellis 1963:261).

Ellis travelled from North Kohala by canoe for the last twenty miles to Kawaihae. He wrote about that trip:

Though we had numbered, in our journey today, 600 houses, we had not seen any thing like four

hundred people, almost the whole population being employed in the mountains cutting sandal wood (Ellis 1963:286).

Ellis continues his observations after arriving at Kawaihae:

Before daylight on the 22d we were roused by vast multitudes of people passing through the district from Waimea with sandal wood, which had been cut in the adjacent mountains for Karaimoku, by the people of Waimea, and which the people of Kohala, as far as the north point, had been ordered to bring down to his storehouse on the beach, for the purpose of its being shipped to Oahu.

There were between two and three thousand men, carrying each from one to six pieces of sandal wood, according to their size and weight. It was generally tied on their backs by bands made of ti leaves, passed over the shoulders and under the arms, and fastened across their breast. When they had deposited the wood at the storehouse, they departed to their respective homes (Ellis 1963:286-287).

Meanwhile, as this debilitating work continued, Kanaka Maoli farmers were unable to care properly for their food gardens . As a result famine stalked the land. Those who survived were unable to satisfy the greed of the commercial traders and merchants. By charging interest the traders and merchants increased the debt, even as sandalwood payments continued to be made. Anxious to squeeze the last stick of sandalwood from the Hawaiian forests, or an equivalent in money, the traders and merchants called on their countries military to force the Kanaka Maoli to pay up (Kuykendall 1938: Appendix D: 434-436).

Between 1824 and 1844, at least 52 man-of-war ships, including American gunboats, came to the Hawaiians Islands. Several threatened to take over the Islands, if the chiefs did not pay the foreign merchants and trading ship captains all the sandalwood they claimed was owed them.

In this crisis, the American missionaries not only became advisors to the Hawaiian king and chiefs, they also became the architects of the new western-style Hawaiian Government.

As I look back on this period of history, and in this brief account this evening, it is obviously impossible to provide all the details, I have developed some thoughts about what it meant to the Kanaka Maoli; what it meant to the sovereignty of the Indigenous People of these Islands. It is my opinion that the American missionaries and their friends led the Kanaka Maoli into a trap from which they have never escaped.

As the design for the new government became more complicated, the greater became the dependency of the Hawaiian king and chiefs on the American missionaries and their friends. The American missionaries, who became leaders in the Hawaiian government, undoubtedly believed that their way was the best way, that their culture was the best culture, that their religion was the best religion, that their values were the best values. So, it followed, as night follows day, that to force their hoped for transformation from Hawaiian to Haole they took full advantage of the chance to insert themselves and their friends into prominent leadership roles within the Hawaiian government, and there they remained until they took over completely.

In these enlightened times when we are at least discussing human rights, and to some extent the discussion includes the rights of Indigenous Peoples throughout the world, I believe that we should look at the history of Hawai'i, the history of the Hawaiian People, from the view points of human rights and rights of Indigenous Peoples, as we have come to understand them today.

Genocide is a big word, a new word in our local vocabulary. Genocide is a crime against a people, or their culture. Genocide is not merely the intentional slaughter of a people, it also applies to much more subtle actions that destroy the culture of a people, and in this case of an Indigenous People into whose country Americans have inserted themselves and their culture, and all that that means.

Among the many crimes committed by foreigners in Hawai'i, perhaps the greatest was the plan of the American missionaries that resulted in alienating the land from the Hawaiian people. They called their plan "The Great Mahele" (division). It was described by them as "an act of great generosity by the Hawaiian King," who, they said, "gave his land to his people." Would that this were so.

The plan as made and carried out by the American missionaries, who operated from within the government, was a land registration scheme designed to provide the means for transferring control and/or ownership of the Kanaka Maoli land into the hands of the foreigners as quickly as possible.

By a series of quit claims the king and 251 high chiefs, including several with non-Hawaiian surnames, divided all the land in the Islands among themselves as their private property, exempting only the claims of the Kanaka Maoli ho'aina, the tenants on the land. This is called the Mahele of 1848. Each of the 251 quit claims with King Kamehameha III are recorded in the "Mahele Book."

The king then divided the land parcels (*ahupua'a* and *'ili'aina*) he had set aside as quit claims in the Mahele Book into two groups: his own private land, which was called "The King's Land," and "Government Land."

Thus, In the Mahele of 1848, the lands of the Islands were divided into the following three categories:

- (1) The King's private lands: approximately 1,000,000 acres.
- (2) 251 chiefs' private lands: approximately 1,600,000 acres.
- (3) The Hawaiian Government's lands: approximately 1,500,000 acres.

The Ho'aina Kanaka Maoli (Hawaiian farmers) had been allowed only two years to register their claims. The deadline was February 14, 1848. As this date proved indeed to be a dead line for Kanaka Maoli, I have sometimes thought it remarkable that this was also the anniversary of James Cook's death at Kealakekua Bay. Was the selected date merely serendipity, or was it intentionally selected as retribution and/or punishment?

Nothing was done about awarding land to the Ho'aina Kanaka Maoli (Native Hawaiian tenants) claimants until two and a half years after the deadline, not until August 1850, when the Kuleana Act was passed. During the interim between the February 14, 1848 deadline and the passage of the Kuleana Act in August 1850, many Hawaiians died of foreign diseases, many were dispossessed from their traditional land. Foreigners took over large parcels from the chiefs. Some lands were taken in payment of former debts. In many cases they evicted the Ho'aina Kanaka Maoli. In some cases the objective was to clear the land of people so as to have free reign for planting hundreds and eventually thousands of acres in sugar cane. This was especially the case after the Reciprocity Treaty of 1876. In other cases, the objective was to clear the land of people and turn it over to cattle.

The Kuleana Act of 1850 was supposed to result in land being awarded to the Ho'aina Kanaka Maoli (adult male farmers, or *maka'ainana*). A

claimant had to have two witnesses who would testify to confirm his claim, had to have under cultivation any garden land claimed, and had to have permission from the owner of the surrounding *ahupua'a* or *ili'aina* to occupy and cultivate the land. In addition, the parcel claimed by the *ho'aina* had to be free of any counterclaims. Before an award could be made, the parcel had to be surveyed and the surveyor paid a fee. After testimony was taken and a decision made that the claim be awarded, a fee had to be paid to the Board of Commissioners before the deed was finally be turned over to the *kuleana* claimant. By this time he may be dead, as so many Hawaiians died during the two and a half year time lapse between the deadline for filing a claim (February 14, 1848) and the passage of the Kuleana act in August 1850.

The claimant would be awarded only the land that he cultivated to feed himself and his family, if he cultivated additional land, the products of which he took to market, that land would not be awarded. This rule effectively prevented Hawaiian farmers from participating as effective players in the market economy, the basis of American investments in Hawai'i.

In addition, any land within the awarded *Kuleana* on which the farmer cultivated a crop intended for the landlord, that land would be awarded to the landlord. As a result, many *Kuleana* parcels have chunks carved out of them, sometimes at the corner, sometimes along the side, but often right out of the middle of the *Kuleana* award. The farmer's houselot could be no larger than one-quarter of an acre. The farmer would not be awarded any *kula* land (grazing land), as *kula* lands were awarded to the *konohiki* (chief), the owner of the large land parcel, *ahupua'a* that

stretched from the mountains to the sea, in which the farmer's small parcels were located.

Out of a total population of approximately 81,300, of which about 29,200 were adult males, only 14,295 claims were registered. Of these claims, 4,287 were identified in the *Indices of Awards...* as "Not Awarded." No reasons are given. An additional 808 are labelled as having been awarded under another number: "See Award No. xxxx." No explanation is given. Approximately 200 Mahele Chiefs also received numbered awards in this system. There is evidence that some 400 lesser chiefs, who didn't participate in the Mahele of 1848, received awards of relatively large acreages of land from the Board of Commissioners, much larger acreages of land than were awarded to the *ho'aina*, the commoner farmer. Approximately 200 individuals received land under two award numbers, and approximately 200 awards were made to foreigners, including American missionaries and American traders and merchants. Some of these awards were made to foreigners who had been in the service of the King, or the Government. Some of them received very large parcels of land for their services.

By our estimate only about 8,300 awards were made to Ho'aina Kanaka Maoli, the commoners, and they received less than 28,600 acres in parcels "averaging from two to four acres" (Blackman 1899: 158; Lind 1938:47). Only about 26% of the adult male population of Kanaka Maoli farmers received land from which to feed their wives and families. All the rest of the farmers, some 74% of the adult male Kanaka Maoli population, were left without land to cultivate for themselves and their families.

Without deeds, many Kanaka Maoli farmers were forced from their traditional lands by the sugar cane plantations, ranches, or other foreign enterprises. A "Vagrancy Law" passed in 1850, permitted the government to incarcerate Kanaka Maoli who had no visible means of livelihood and could not "give a good accounting of themselves." They were put in work gangs and forced to build roads, or they were farm out to sugar plantations to work for a period of a year.

There were other taxes to be paid by adult males: A \$2.00 school tax, a \$2.00 road tax, and a \$1.00 poll tax (Civil Code 1859:106-107). For each two-year-old horse one owned, the tax was \$1.00. The annual tax on a mule was \$.50 and a burro \$.25. Each dog was taxes \$1.00 (Civil Code 1859:105). There were other taxes. For example, if one owned a carriage or wagon, that was taxed \$5. per year, unless you were a plantation (Civil Code 1859:105). A retail license cost \$50. a year (Civil Code 1859:18). Public showings of hula needed a license that cost \$10 per performance. Caught without a license, the fine was up to \$500., or imprisonment at hard labor for up to six months (Civil Code 1859:26).

Those "lucky" enough to have been awarded a small parcel of land discovered that new laws forced them to pay taxes on their land in money (Civil Code 1859:106). No longer were *lauhala* mats, cordage, or pieces of *kapa* acceptable. Without any means of obtaining money, many had to leave their *kuleana* lands, migrate to a port city to find work in order to get enough money to pay the taxes on their land. Those who failed to sell their labor and earn money for their taxes, had their land seized and sold for unpaid taxes. In this way many foreign owned plantations ended up owning *kuleana* lands that had been originally awarded to Kanaka Maoli farmers.

A farmer with a *kuleana* might be cultivating taro and other crops for himself and his family. However, as sugar plantations spread out onto dry kula lands, irrigation water was taken from windward streams and delivered by ditches to the sugar cane fields. In many cases the ditches that diverted the water to the sugar cane fields, left little or no water for the taro farmers downstream. Many were thus driven from their *kuleana* lands. In order to obtain rights to water, plantations often purchased one or two undivided interest in a *kuleana* from heirs. Appeals to the government went largely unanswered.

If a Kanaka Maoli farmer left his land to find work to pay the taxes on his land, and did indeed pay them, but because he was unable to live on his land and protect it, the near-by plantation might plow his land, plant sugar cane, or run cattle on it. In 10 years, the adverse possession law (which can aptly described as legalized theft) allowed the plantation, or ranch, to claim the land from the true owner and tax payer. The owner, unaware of what was happening, or what to do about it even if he knew, would lose his land. If the *kuleana* awardee went to a foreign lawyer to help him protect his land against the adverse possession law, without money to pay the lawyer, the *kuleana* land title was transferred to the lawyer in payment of legal fees.

Thus, as a result of the work of the American missionaries, their decendants, business partners and friends, the great majority of Hawaiians were, for all practical purposes, completely dispossessed of their land, the land they needed to feed themselves and their families. The Kanaka Maoli population of the Islands dropped drastically during the 19th century. Much of that drop can be laid to the fact of the land being deliberately taken from the Hawaiian people.

According to Sociologist Andrew Lind:
sixty-four per cent of the lands sold by the government previous to 1886 went to occidentals, and so extensive had the transfer of land titles been by 1896, a half-century after the Mahele, that 57 per cent of the acreage against which taxes were levied belonged to Americans and Europeans (Lind 1938:57, quoting Blackman 1899:161).

Lind continued:
In 1897 American and European firms and individuals paid 67 per cent of the entire real estate tax of Hawaii. By 1930 this ratio had increased to 70 per cent, while the Hawaiian and part-Hawaiian ratio had diminished from 24 to 14 per cent in the same period of time [Lind 1938:57, quoting Thrum (1899):41, and Annual Report of the Governor of Hawaii to the Secretary of Interior (1930):30]

Land ownership in the Islands today is in the hands of approximately 85 major private landowners, each owning a thousand acres or more and they own approximately 45% of all the land in the Islands. The Federal and State Governments own or control almost all of the remaining acreage in our Islands. Very few Kanaka Maoli own any land at all, and among those who have a few acres, many live in fear that they will be taken away from them by big landowners. Their fears are real, as small *kuleana* parcels are being claimed by large landowners today, right now.

How does this all fit into our modern concepts of human rights and rights of Indigenous Peoples? I believe that this history makes a very strong case for "Cultural Genocide," as formulated in the Draft Declaration on the rights of Indigenous People, which reads in part: "Indigenous people have the collective and individual right to be protected from cultural

genocide." This includes the "dispossession of their lands, territories or resources."

A case should also be presented to the Working Group on Indigenous Populations, a group that was established by the Sub-Commission on Prevention of Discrimination and Protection of Minorities in 1982. The Sub-Commission was in turn established by the Commission on Human Rights in 1947, and the Commission on Human Rights was established by the General Assembly of the United Nations in 1946.

The Working Group has been holding annual meetings for ten years and expects to wrap up its work on the Declaration of the Rights of Indigenous People in 1993, the YEAR OF THE INDIGENOUS PEOPLES.

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