

CERTIFIED INTO EXISTENCE, (RE)CERTIFIED TO EXTINCTION:

BLOOD QUANTUM AND
THE DEPARTMENT OF HAWAIIAN HOME LANDS

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ABSTRACT

The passage of the Hawaiian Homes Commission Act (HHCA) in 1921, is a *defining* moment for kānaka, as it segregates the collective into two separate and unequal groups, along exclusively racial lines. Through the HHCA, the Department of Hawaiian Home Lands (DHHL) is compelled to enforce and devise a method to prove each applicant's blood quantum, qualifying the applicant as a "beneficiary," thereby making them eligible to apply for a Hawaiian home lands lease. The purpose of this thesis is to problematize the methods used to certify Hawaiian blood quantum, and to examine the documents required by DHHL to prove racial/ethnic/ancestral make up. This thesis also discusses the ramifications that the continued use of the HHCA definition of "native Hawaiian" (i.e. 50% blood quantum or more) has on an individual's eligibility for entitlements aimed to benefit all lineally descended kānaka.

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LIST OF ABBREVIATIONS

DOH - Department of Health

DHHL - Department of Hawaiian Home Lands

HHC - Hawaiian Homes Commission

HHCA - Hawaiian Homes Commission Act

HHL - Hawaiian Home Lands

HRC - Hawaiian Roll Commission

KS - Kamehameha Schools

OHA - Office of Hawaiian Affairs

US - United States of America

CHAPTER 1. INTRODUCTION

When I was in the fifth grade my family was in the middle of, yet another, family feud. I was not exactly sure what the problem was, but I knew it was something big because my Kūkū (grandmother) had never spent this long ignoring my uncle "Jack" and aunt "Jill."¹ Let me preface this story by saying that, over the years, Kūkū and aunt Jill have engaged in many, many "spirited discussions" leading to several periodic bouts of silence between them, lasting anywhere from six months to two years at a time. You may be wondering what uncle Jack's role is in this ever-complicated relationship between his wife, aunt Jill, and his sister, my Kūkū, but suffice to say that he could be labeled a "silent-partner," ever the diplomat not wanting to exacerbate an already volatile connection. On one side of the feud was my Kūkū, a sixty-year-old Hawaiian-Hungarian firecracker who handles a machete in the garden like it is an extension of her right hand; and on the opposing side is aunt Jill, an early sixties pure-Pākē (Chinese)-married-to-a-Hawaiian who can make a grown man cry with her sharp tongue. I guess uncle Jack should not be forgotten, an early sixties Hawaiian-married-to-a-Pākē who firmly believes "happy wife, happy life," but for the sake of brevity, he plays a purely supporting role in this story, simply acquiescing to aunt Jill in order to avoid an explosion of nuclear proportions.

The tension in Kūkū and aunt Jill's relationship came to a head more than thirty years ago after Kūkū and uncle Jack's mother passed. In the midst of the

¹ Jack and Jill are pseudonyms.

chaos that can sometimes follow a funeral and a family's mourning period, aunt Jill got a hold of my great-grandmother's personal files and took it upon herself to store them in her home. Amongst her personal papers, my great-grandmother had her own birth certificate, as well as the records from several other family members. Kūkū's mother passed away in September of 1980, but uncle Jack's application for Hawaiian Home Lands is dated in 1996,² and I am unsure why he waited so long because he was well into his fifties by the time he applied. Seeing that Kūkū and aunty Jill are in the midst of another spat at the present time, which will not be ending in the foreseeable future, it is unlikely that an explanation to this question will be received. As for Kūkū, she had no need for Hawaiian Home Lands, as she and her husband already owned a home in Kalihi, but when my sister and I started high school, she and my father decided to apply so they could eventually pass the land on to my sister and I.

What was the first step in the application process? Hunt down birth certificates for Kūkū's mother and father. It would seem to be easy enough, as aunt Jill had them stored for "safekeeping," and luckily, Kūkū and aunt Jill happened to be on amicable terms then, so the birth certificates were just a phone call away. It should have come as no surprise though, that aunt Jill refused to share the birth certificate with us, claiming instead that the certificates were her personal property and that Kūkū and my father should go down to the Department of Health (DOH) and obtain their own copies. Unfortunately, the Department of Health was unable to

² While the application is dated 1996, it should be noted that it is possible that the "application date" differs from the date that the completed application was received by the DHHL.

find the certificate, and offered no further suggestions as to an alternate venue for acquiring similar birth documentation. It was around this time that a friend of my father told us that he did not actually need the certificate, but if someone was already certified using the information from that certificate, the department could use that person's records to quantify a family member's blood. He thought he had hit the jackpot! Now, all aunt Jill would have to do was sign a permission form allowing us to use the information from uncle Jack's application, and she would never need to give up my great-grandmother's birth certificate, but if there is anything predictable about my aunt Jill, then it is that nothing is ever that simple. She refused to sign the permission form allowing us to use uncle Jack's information, saying that she did not want anyone "using his name" for anything! While she never had any legal power-of-attorney which allowed her to make decisions on uncle Jack's behalf, aunt Jill was the one who made all the decisions in that household.

Needless to say, aunt Jill's actions (and uncle Jack's inaction) left my immediate family speechless, but not at all surprised. The family put Hawaiian Home Lands on hold for a bit, until they eventually found a distant relative who helped them to get the documents needed, and who also helped transfer their information to Kūkū and my father's application at the DHHL. Aunt Jill's refusal to assist my family in the blood quantum certification process for DHHL is what led to one of the major squabbles between her and my Kūkū. While there is no accounting for the unpredictable actions of characters like our beloved aunt Jill, the crux of this dilemma is rooted in the necessity to provide these kind of government issued

proof-of-race documents in order to prove what is already known, that we are Hawaiian.

When my Kūkū and father finally got their paperwork in order and turned in, they were declared "beneficiaries" and were added to the DHHL waiting list with an application date of 2002. Several years later, in the summer of 2009, I found myself, six-months pregnant, sitting shoulder-to-shoulder with my husband, mom, dad, sister, and Kūkū in the cafeteria of Kapolei High School at a lot selection meeting for the DHHL.

The white washed walls of the high school cafeteria were filled to capacity, not to mention the two mammoth circus-like tents outside, which were complete with flat screen television broadcasting a live feed of the "awarding ceremony," which housed the overflow of attendees. All eyes were fixed to our fate, in the form of a large projection screen near the front of the room, which showed a list of DHHL qualified Hawaiians, organized by application date. We were given a map of the not yet built Kānehili housing project along with a paper on which to list our preference of lots, in order, from 1-20. Then, we waited. We waited for the list of names to go on and on and on until one, gratefully, saw their name peek out from the bottom of the screen. When the first name was called, the family stood up and marched to the front amidst tumultuous applause and a chorus of congratulations, and they chose their lot. The family's choice was then announced over loudspeaker, and everyone was supposed to cross that lot off their map, and move down to the next choice on their list. This process continued for hours, and as each successive lot selection garnered less and less applause, the hopeful smiles and star struck eyes of the

gallery turned to blank expressions and stares of contempt. As I sat at the rear of the packed cafeteria, with our name not yet in sight, I found myself wondering how this entire system had come to be.

Research Questions

The title of this thesis, "Certified into Existence, (Re)Certified to Extinction: Blood Quantum Certification and The Department of Hawaiian Home Lands" refers directly to the process by which the Department of Hawaiian Home Lands (DHHL) certifies certain Hawaiians into *actual* existence by qualifying them as "beneficiaries" of the HHCA, making them eligible to apply for homestead land. The main research questions to be addressed in this thesis are: (1) Are vital statistics records, i.e. birth, marriage, and death certificates, appropriate documents on which to basis a calculation of blood quantum? (2) What are the methods for gathering race and ethnicity information for vital statistics records in Hawai'i? (3) How do Hawaiian notions of kinship affect the ways in which information is provided on vital statistics records? (4) What are Affidavits of Ancestry, and how and why are they used to assist with blood quantum calculation? (5) What are the minimum qualifications to become a DHHL Genealogist and are those qualifications practically and *culturally* sufficient to make decisions on an individual's blood quantum? (6) Is it possible to *unequivocally* determine blood quantum using the method outlined by the DHHL? (7) What are some of the ways native peoples outside of Hawai'i determine membership to native organizations or tribes?

The Hawaiian Homes Commission Act

The Hawaiian Homes Commission Act of 1920 created a homesteading lease program for Hawaiians and created the DHHL, an office of the Territorial Government, in order to administer and manage these leases. Jonah Kūhiō Kalanianaʻole, while a Representative for the Territory of Hawaiʻi, the HHCA, had the intended purpose to "enable native Hawaiians to return to their lands in order to fully support self-sufficiency for native Hawaiians and the self-determination of native Hawaiians in the administration of this Act, and the preservation of the values, traditions, and culture of native Hawaiians."³ The HHCA created an executive managing board called the "Hawaiian Homes Commission," (HHC) made up of nine governor appointed delegates: eight (unpaid) island representatives, and one commissioner, who also serves as the full-time (paid) director of the DHHL.

With the introduction of the HHCA,⁴ Hawaiians were segregated into two separate and distinct categories, effectively fracturing the collective physically and psychologically, determined by the foreign concept of blood quantum.⁵ The HHCA defined a native Hawaiian as "any descendant of not less than one-half part of the

³ Hawaiian Homes Commission Act of 1920 § 101, State of Hawaiʻi (1921).

⁴ For more background on the HHCA, see Marylyn Vause, "The Hawaiian Homes Commission Act, 1920: History and Analysis," (MA Thesis, University of Hawaiʻi, 1962), and Frank Bailey, "'Āina Hoʻopulapula: A Contested Legacy, Prince Jonah Kūhiō Kalanianaʻole's Hawaiian Homes Commission Act during the Territorial Years, 1921-1959," (PhD Dissertation, University of Hawaiʻi, 2009).

⁵ For more on the blood quantum debates in the legislative hearings for the HHCA, see J. Kēhaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*, Durham and London: Duke University, 2002. This work examines, in detail, the political machinations of the creation of the blood quantum requirement conceived in the HHCA. Kauanui scrutinizes the relationship between moʻokūʻauhau (genealogy) and the "arbitrary" nature of blood quantum, and the theory that interracial marriage will "dilute" the degree of Hawaiian-ness in blood.

blood of the races inhabiting the Hawaiian Islands previous to 1778,"⁶ and by this definition "certified"⁷ certain kānaka maoli⁸ as native Hawaiians and, in turn, made them "beneficiaries"⁹ of the DHHL. It should be noted, however, that in the initial version of the HHCA introduced to the legislature, there was no minimum blood quantum requirement for eligibility. It has been argued that because the main support for legal claims of kānaka were based on social injustices perpetrated against the collective, "there was no need to distinguish among Hawaiians when it came to discussing eligibility because all were entitled."¹⁰ While a discussion of blood quantum was not the primary concern for the congressional delegates, Republican representative Cassius C. Dowell of Iowa first introduced a criterion by saying that "anybody, even to the thirty-second degree should be included."¹¹ Although Representative Dowell was supporting the legal claims of the collective, the fraction provided in his off-handed statement would ironically become the baseline introduction for later congressional debates on who would qualify as native Hawaiian for these entitlements.

In the first set of congressional hearings of the Committee on Territories of the US senate in December of 1921, Alexander George Morison Robertson (A. G. M.

⁶ Hawaiian Homes Commission Act of 1920 § 201, State of Hawai'i (1921).

⁷ Ibid.

⁸ Term that describes the native/indigenous people of Hawai'i.

⁹ Term used by the DHHL to describe native Hawaiians eligible for Hawaiian home lands leases.

¹⁰ J. Kēhaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*, Durham and London: Duke University, 2002, 101.

¹¹ Ibid., 112.

Robertson),¹² a Republican politician and former Chief Justice of the Supreme Court of Hawai'i, argued vehemently about the need to separate kānaka according to blood, which directly informed the amount of rehabilitation needed (i.e. full-blooded kānaka needed a full scale rehabilitation plan, while all other kānaka should be self-sufficient).

the part Hawaiian, . . . are a virile, prolific, and enterprising lot of people. . . These Hawaiians have had the advantage, since annexation especially, of the American viewpoint and the advantage of a pretty good public school system, and they are an educated people. They are not in the same class with the pure bloods. . .so that it seems to me that we are decidedly confusing the two classes and that there is a vital mistake in the bill.¹³

This excerpt of Robertson's testimony to the Committee on Territories is an example of the racial and social prejudices projected from the haole-hegemony onto the kānaka. As will be discussed in chapter three of this thesis, Robertson was a staunch supporter of the racialization of kānaka by arguing that race was an accurate measure of the ability of certain individuals to be successful members of society. In later testimony, Robertson attempted to sway the Committee on Territories to believe that this bill only passed through Hawai'i legislation because "Hawaiians" maintained control of the legislature, and all but accused the Hawai'i legislature of reverse racism. The HHCA was the vehicle used to impose a blood

¹² Robertson, who happened to be married to a part-Hawaiian woman named Ululani McQuaid while she was still in her teens, was one of the most vocal opponents of the Hawaiian Homes Commission Act. See Dale E. Hall, "Two Hawaiian Careers in Grand Opera," *The Hawaiian Journal of History* vol 25, 1992, 165-183. At this meeting, Robertson was a counsel representing the Parker Ranch which, if the bill passed, would have to forfeit portions of their leased land, as that land would be moved into the Hawaiian Home Lands Trust.

¹³ Committee on Territories, *Hawaiian Homes Commission Act of 1920: Hearings before the Committee on Territories United States Senate*, Washington: Government Printing Office, 66th Congress, 3rd session 1921:16.

quantum requirement on the k̄anaka, but the law lacked a specific method of implementation for the provisions of this new policy. This thesis attempts to further problematize the concept of a blood quantum criterion by questioning the DHHL's current process for certifying blood quantum by concentrating on the documents utilized as proof of race/color/ethnicity/ancestry: vital statistics certificates, employment, military, and church records, and Affidavits of Ancestry.

The Department of Hawaiian Home Lands

As the governing agency in charge of managing the provisions of the HHCA, the DHHL has been subject to significant public scrutiny, as of late, in regards to the office's ability to properly manage itself as an entity, not to mention the office's ability to adequately administer the land and financial assets at their charge.¹⁴ While DHHL is currently under fire for mismanagement woes, this thesis attempts to tackle blood quantum as public policy resulting from the HHCA, an issue that is foundational to identifying beneficiaries. This section of the thesis will provide some historical and institutional background of the DHHL to familiarize the reader with this institution.

DHHL is made up of eight smaller divisions: Office of the Chair; Information and Community Relations; Planning Office; Homestead Services Division; Land Management Division; Land Development Division; Administrative Services Office;

¹⁴ On recent public scrutiny of the DHHL, see Rob Perez, "Hawaiian home lands slammed," *Honolulu Star-Advertiser*, 18 April 2013; Rob Perez, "Mismanagement plagues leases," *Honolulu Star-Advertiser*, 5 May 2013; Rob Perez, "Lease overhaul," *Honolulu Star-Advertiser*, 24 July 2013; Rob Perez, "Strife within state agency is laid bare in recording," *Honolulu Star-Advertiser*, 9 Feb. 2013; "Lawmakers will seek answers from DHHL after audit," *Honolulu Star-Advertiser*, 22 May 2013.

and the Fiscal Office. This thesis will primarily discuss operations falling under the Homestead Services Division, which is made up of three branches: the District Operations Branch, providing services to both lessees and applicants through six district offices; the Homestead Application Branch, which processes applications (including blood quantum certification) and maintains waitlists; and the Loan Services Branch, that provides financial assistance and access to alternative methods of financing, and acts as a collection agent to obtain payments.

Following the enactment of the HHCA in 1921, the newly formed Hawaiian Homes Commission (HHC) began the process of creating and leasing the first lots for Hawaiian homesteading on the island of Moloka'i. In an article in *Ka Nūpepa Kū'oko'a (The Independent Newspaper)* entitled "Na Noi no na aina ma Molokai," (Requests for land in Molokai) DHHL made its initial call for applications for the first 24 available homestead lots in Kalama'ula in April of 1922.¹⁵ The initial applications were to be submitted to the Executive Secretary of the Hawaiian Homes Commission, George P. Cooke, to await awarding by the DHHL. Even then, the first wave of applications totaled 70, 46 more than lots available, with eight applicants actually being awarded a homestead lot.¹⁶ The HHCA outlined several logistical stipulations for these homestead lot leases: 20 - 40 acres per agriculture or aquaculture lots; 100 acres maximum for any irrigated pastoral lots; 1,000 acres maximum for all "other" (those without infrastructure) pastoral lots; one acre

¹⁵ "Na noi no na aina ma Molokai," *Ka Nupepa Kuokoa*, Buke 61 Helu 14:8, 1922.

¹⁶ Hawai'i State Archives, Department of Hawaiian Home Lands, HD1337.H37, Annual report, 1923.

maximum for any residential lot, except for pre-planned lots in Kalama‘ula on Moloka‘i, where the maximum was four acres per lot.¹⁷ One was not disqualified from leasing Hawaiian Home Lands (HHL) if they already owned a property, but department regulations specified that all HHL lots must be owner-occupied.

When applying for Hawaiian Home Lands, applicants were eligible to apply for a combination of three different types of lots: residential (RES), agricultural (AG), and pastoral leases (PAS), but if applying for two, one of them must be residential. For example, an applicant could apply for residential and pastoral leases, or residential and agricultural leases, but not for agricultural and pastoral leases together. As of January 1, 2012, statewide, the DHHL has 42,278 applications on file for leases, the breakdown of which is shown in the Table 1.1.

¹⁷ Hawaiian Homes Commission Act of 1920 § 207, State of Hawai‘i (1921).

Table 1. Statewide Lease Application Totals by Island

Island	Residential	Agricultural	Pastoral	Total
O'ahu	9857	3398	N/A	13255
Māui	3613	4471	561	8645
Hawai'i	5601	6873	1900	14374
Kaua'i	1550	2143	295	3988
Moloka'i	744	1020	187	1951
Lāna'i	65	N/A	N/A	65
	21430	17905	2943	42,278

Table 1.1 is useful to visualize the numbers of applicants requesting land by island, but can be problematic because applicants may apply for more than one type of lot, and this skews the statistics quite significantly. In order to understand the number of applicants rather than the number of *applications* for different types of leases, I have broken down the above information further to include applicants who have pending applications in more than one category. Table 1.2 illustrates more clearly the number of "certified" native Hawaiians on the DHHL Applicant Waiting List.

Table 2. Statewide Applicant Totals

Application Types	TOTAL
Residential ONLY	5538
Agricultural ONLY	4240
Pastoral ONLY	717
Residential AND Agricultural	13665
Residential AND Pastoral	2226
TOTAL	26,386

One of the prerequisites of the applicants counted in the above tables, is that they have already been certified "native Hawaiian" by DHHL. While logically, initial certification should follow through the eventual award process, applicants' blood quantum certification comes under an additional review when they are awarded a lease, to assure that the DHHL maintains their "fiduciary responsibility" by leasing land only to "beneficiaries," the native Hawaiians.

The information provided thus far in this thesis has served to frame the scope of this research, and to underscore the importance of the DHHL as an entity with the ability to grant membership to certain citizens they deem "qualified" to become certified "native Hawaiians." While the story that I tell is not a story that applies to all k anaka who apply for leases through the DHHL, it does illustrate some of the challenges that can be encountered when attempting to prove the requisite

blood quantum. Much of the literature associated with this topic focuses directly on the implications of a blood quantum criterion on Native peoples and the ways in which that criterion ultimately supports the hegemonic force imposing it. The literature on blood quantum laws is compelling and is essential to this thesis, as this thesis uses that literature to support a view that it is not feasibly possible to determine blood quantum, in the manner laid out by the DHHL.

In her Master's thesis in 1962, Marylyn Vause provides valuable insight into Jonah Kūhiō Kalaniana'ole's predicament when creating the provisions of the HHCA. Vause maintains that Kūhiō, along with several other high-ranking government officials, created an "exclusively racial plan," intending that the HHCA would benefit all Hawaiians as a race, in order to compete with the more modern (and American) individualistic society.¹⁸ While the intent of the bill was to reinvigorate Hawaiians as a people, Vause contends that, referring to the HHCA's blood quantum requirement, "paradoxically, the program was geared to the rehabilitation of individual members of the race and not the whole race of Hawaiians."¹⁹ Vause provides the most complete analysis of the HHCA as a bill of "rehabilitation"²⁰ and provides the most detail regarding the inner workings of the creation of the HHCA. She provides a

¹⁸ Vause, "The Hawaiian Homes Commission Act, 1920: History and Analysis," (MA Thesis, University of Hawai'i, 1962), 123.

¹⁹ Ibid.

²⁰ While it is not immediately apparent when or who first dubbed the HHCA the "rehabilitation bill," it is a name that stuck, plausibly because its stated intention is to rehabilitate the Hawaiian race. A. G. M. Robertson often, and in the early stages of the HHCA, referred to the bill as the "rehabilitation bill." See: Committee on Territories, *Hawaiian Homes Commission Act of 1920: Hearings before the Committee on Territories United States Senate*, Washington: Government Printing Office, 66th Congress, 3rd session 1921.

helpful summary of the pages of committee hearings on the HHCA, and adds commentary regarding certain individuals' perceived goals and prejudices. While birth certificates themselves, or the process of certifying blood quantum are not a prevalent subject in her work, Vause's analysis of the HHCA, as a whole, sets the stage upon which HHCA's sociopolitical ramifications are enacted beginning in 1921.

J. Kēhaulani Kauanui's *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*, is the most concise and complete work on Hawaiian blood quantum. Examining blood quantum from a Political Science point-of-view, and as a Hawaiian scholar struggling with her own self-identification as a Hawaiian who grew up away from Hawai'i, Kauanui's perspective illuminates and elucidates the theoretical underpinnings of blood quantum. Focusing on the political ramifications of this "blood logic," Kauanui points to the faction of the Territorial government made up of the predominantly-white hegemony as creating the "membership criteria for determining citizenship. . . premised on colonial dispossession."²¹ Kauanui further maintains "blood quantum is a manifestation of settler colonialism that works to deracinate – to pull out by the roots – and displace indigenous peoples."²² Kauanui asserts that blood quantum is a tool introduced and employed by the United States of America, in order to subjugate, and facilitate the taking of Hawaiian land and divide the "Hawaiian race" in the process. She also argues that the blood quantum rule rendered kānaka with 50% or more blood

²¹ Kauanui, *Hawaiian Blood*, 10.

²² *Ibid.*, 9.

quantum as "incapable" of supporting themselves, as if having a higher percentage of foreign blood could make a person more industrious.²³

In the Name of Hawaiians: Native Identities and Cultural Politics by

Communications Studies scholar Rona Tamiko Halualani, deals directly with aspects of identity construction influenced by the DHHL. Halualani approaches her analysis of blood quantum ethnographically, and is most effective in her use of personal memory as a vehicle for illustrating the inherent phenomenology encountered when dealing with self-identification. In chapter three, "Exposing the Racial State," she recounts the story of her own experience with DHHL and attempting to find documentation to satisfy their requirements, and it is this story that serves to personalize the theoretical problems with blood quantum that she discusses. Notably Halualani observes that the "racial state not only constitutes, organizes, and fills racial categories. It transforms, fixes, and rigidifies private memory into official normative account."²⁴ This discussion of personal memory presents an interesting contrast to Kauanui's presentation of blood quantum, by personalizing the blood quantum requirement through personal anecdotes and lived experience of Hawaiian people attempting to become certified through the DHHL. The anecdotes that Halualani relays serve as necessary examples of the process of self-identification as a Hawaiian through mo'okū'auhau and social interactions. In this "rigidifying" of identity, the nature of self-identity has changed simply because it has become finite.

²³ Ibid.

²⁴ Rona Tamiko Halualani, *In the Name of Hawaiians: Native Identities and Cultural Politics*, Minneapolis and London: University of Minnesota, 2002, 127.

Rose Cuison Villazor, in "Blood Quantum Land Laws and the Race versus Political Identity Dilemma," engages in much needed legal debate amongst past cases regarding blood quantum, throughout the US. While her sentiment is much the same as that of Kauanui and Halualani, in regards to how blood quantum adversely affects the construction of identity, her case study identifies the concrete and long-lasting effects of legal decisions on blood quantum laws. Villazor focuses on the dichotomy of racial versus political identity and the "struggle between protecting individuals from race discrimination and promoting the collective right of indigenous peoples to self-government."²⁵

Research Rationale

Applying for a Hawaiian Homestead lease would, at first glance, seem a simple exercise in following instructions and completing forms, but this seemingly uncomplicated process becomes a formidable threat when Hawaiians are required to provide proof to validate their blood, which can in turn, validate or invalidate their own self-identification as Hawaiians. I argue that the blood quantum certification is creating a separation between Hawaiians based on blood quantum, and in this separation the Hawaiians who become certified, at least according to the State and Federal Governments, are "certified into existence" to a category called "native Hawaiians." The initial certification creates a situation where there are the "haves" (certified "native Hawaiians") and the "have-nots" (all other Hawaiians with less than 50% blood quantum). At least concerning Federal and State monies,

²⁵ Rose Cuison Villazor, "Blood Quantum Land Laws and the Race versus Political Identity Dilemma." in *California Law Review*, vol. 96 no. 3, 2008, p 801-837, 37.

"native Hawaiians" are certified into their very existence as being qualified to "benefit"²⁶ from the HHCA and the DHHL.

The DHHL process of "certification" is the method by which each individual applicant's ancestry/race/blood quantum is verified and deemed to be at or above the 50% minimum blood quantum requirement stipulated by the HHCA. The DHHL employs a formula to determine an applicant's quantity of blood, essentially tracing an applicant's genealogy back to their pure-blood ancestor, then subtracting fractions of blood for each time the applicant has a child with a non-Hawaiian, or a person with less Hawaiian blood. Figure 1 is an example pedigree chart, which illustrates the way the fractionizing of blood quantum works for certification purposes. The thought is that a child acquired half of their genetic make-up/blood from their father, and the other half from their mother, so to compute the amount of Hawaiian blood, the child would have half the amount of Hawaiian blood from both their father and mother.

²⁶ I use the word "benefit" in quotation marks, because for the 26, 386 applicants still on the DHHL applicant waiting list, there have been no benefits assigned.

4. Mother of #2 - 62.5%	8. Mother of #4 - 75%
2. Mother of #1 - 31.25%	9. Father of #4 - 50%
5. Father of #2 - 0%	10. Mother of #5 - 0%
1. Applicant - 37.5%	11. Father of #5 - 0%
6. Mother of #3 - 50%	12. Mother of #6 - 50%
3. Father of #1 - 43.75%	13. Father of #6 - 50%
7. Father of #3 - 37.5%	14. Mother of #7 - 50%
	15. Father of #7 25%

Figure 1. Sample Pedigree Chart

While there is an initial certification at the time of application, the "re-certification" occurs anytime there is a change in lease, and when a beneficiary decides that they would like to sell their home instead of live on the property,²⁷ the DHHL requires a re-certification to re-verify ancestry claims. This re-certification process (which is not clearly defined by the DHHL) would entail re-submitting the same types of documents initially required of the awarded beneficiary. While the processes are essentially the same, the results of this re-certification can be and have been detrimental to previously certified beneficiaries who are unable to pass re-certification.

While there are several scholars whose exceptional work deals with the theoretical underpinnings of the concept of the blood quantum and the legal ramifications of blood quantum (i.e. Kauanui and Villazor), work that serves as a foundation for this thesis, I intend to focus on the immediate and tangible ways in

²⁷ Lessees can only sell their homes, as the land is still kept under leasehold.

which certain Hawaiian institutions, namely the DHHL, are, at the present, actively segregating Hawaiians by their ability to substantiate blood quantum. It is necessary, then, to examine the way in which blood quantum is verified by DHHL. In this thesis, I will scrutinize DHHL's process of certifying Hawaiian blood quantum by examining the documents accepted as proof of ancestry. The DHHL, in its "Application for Lease of Hawaiian Home Lands" specifies the types of documentation required for proof of blood quantum, separated into two categories: primary, which include State issued vital statistics records of birth, death, and marriage; and secondary, which include employment, military, and church records, as well as personal affidavits of knowledge of ancestry.

According to the DHHL, "Applicants (for Hawaiian Home Lands leases) are responsible for substantiating their biological Native Hawaiian ancestry by providing sufficient documentary evidence to the Department for evaluation."²⁸ Meeting these eligibility requirements has been a challenge for many applicants in the past for a variety of reasons: Department of Health policy changes, which contradict DHHL policy; errors on birth, death and marriage certificates; conflicting support documents; typographical errors entered during the State-sponsored digitizing of birth, death and marriage certificates; uncertain oral family history, which leads to inability to satisfy the DHHL's requirements for blood quantum certification. I contend that the "supporting" documents required by the DHHL, in service of the HHCA, are insufficient in determining Hawaiian blood quantum.

²⁸ State of Hawai'i Department of Hawaiian Home Lands, "Instructions for Applying for Homestead Lease," 2012.

Particularly in the case of DHHL, where the goal is to certify a 50% blood quantum, does a mechanism capable of unequivocally calculating that percentage exist?

Theoretical Framework

This thesis is situated in the academic field of Hawaiian Studies, a field that marries traditional academic theory with Hawaiian cultural knowledge and epistemologies, allowing for necessary and unique approaches to research. Historian and kanaka maoli scholar Noelani Arista, coined "kaona-consciousness" as her "comparative historical method" based on the Hawaiian notion of kaona (hidden meaning).²⁹ Arista describes kaona, particularly for individuals with a "degree of linguistic and cultural fluency," as the *multiple*, and *sometimes* hidden, meanings of Hawaiian words and phrases. Kaona, many times, employs metaphorical interpretations of the vernacular, a kind of "package waiting to be unwrapped by the deserving and, knowledgeable listener or reader."³⁰ Arista describes the essential "unpacking" of kaona as facilitating a method of "comparative engagement" with the outside world, influencing relations between people and ways of thinking.³¹

Dr. Arista's notion of "kaona-consciousness" frames this thesis, as this thesis is full of terms that have legal, social, political, formal and informal definitions, and this multiplicity of meanings need to be "unpacked" in order to begin to understand the relationship between the bureaucratic terms of determining blood quantum, self-identification, and socially constructed identities. In particular, the terms: race,

²⁹ Noelani Arista, "Navigating Uncharted Oceans of Meaning: Kaona as Historical and Interpretive Method," *PMLA*, vol. 125 no. 3, 63-69, 2010, 666.

³⁰ Ibid.

³¹ Ibid.

ethnicity and ancestry are kaona-rich, carrying multiple meanings bureaucratically, legally, and in the vernacular. The numerous possible interpretations of terms necessitate a thorough examination of each meaning to understand the kaona implicit in the usage of certain terms. Defining and extrapolating on these terms, which have taken on alternate social meanings separate from their legal and bureaucratic utilization, will provide a foundational understanding of race and ethnicity as social and legal constructs that define us as people. As a larger historical method, kaona-consciousness highlights multiple meanings as products, at times, of personal and social experience, which is dependent upon several layers of the individual identity: social standing, education, family values, religion, age, and cultural knowledge, amongst others.

Hawaiian Studies presents an interesting case when situating one's thesis or dissertation topic within the realm of theories rooted in, resulting from, and affecting Western academic knowledge. As a Hawaiian and a student in the academy, a woman no less, my challenge is to write this thesis from an objective perspective, attempting to privilege my academic self, and not myself as an "insider" to the community that is the subject of this thesis; or at least, that is how the academy trains students to conduct research. In Hawaiian thought though, the world around us: nā akua (gods), nā 'aumākua (familial gods), ka 'āina (land), ka po'e kānaka (people) exist in constant flux, attempting to maintain the deliberate pono (spiritual, physical, and social balance) that preserves Hawaiian society. This pono, which was not easily attained, could only be achieved holistically through a necessary understanding of the relationship of pairs of elements which exist in

balance: kai (ocean) and 'āina (land); kāne (male) and wāhine (female); akua (god) and kānaka (human); and ali'i (chief) and maka'āinana (commoner).

My dual roles as a student within the academy and an "insider" in the community that I am researching offer a unique perspective because I am a character in the situations described in this thesis. My family and friends have experienced the things that are discussed here and these experiences have influenced the way I interpret the information gathered inasmuch as they have allowed me to witness, first hand, the ramifications of a policy that divides the kānaka as a collective, by blood quantum. I also acknowledge that the HHCA can be debated for years to come and may, one day, evolve its definition of a native Hawaiian, but Hawaiians continue to be subjected to its construction of their level of "Hawaiian-ness", daily by the DHHL.

CHAPTER 2. MO'OKŪ'AUHAU

The kānaka maoli of this land once had a rich tradition of passing on mo'okū'auhau (genealogy) orally. Noted Hawaiian scholar and translator Mary Kawena Pūku'i explains the significance of mo'okū'auhau in Hawaiian society saying "with the ali'i (chiefly) class, genealogy was, in fact, a carefully and critically guarded historical science"³² and that genealogical issues and disputes were "authoritatively and legally determined in the *'Aha Ali'i* (councils of Ali'i) subject to judgment of the experts in genealogy (*po'e kū'auhau*) of the lines involved."³³ Further, Pūku'i expounds on the importance of genealogy by discussing Hale Nauā. The early version of the Hale Nauā was a hale (house or structure) built by an ali'i "where his family experts in genealogy tested the claims of persons who claimed to be kin of the *Ali'i*, in accordance with a formal mode of challenge and examination."³⁴ The fact that ali'i built entire structures with the sole purpose of protecting and furthering their own genealogies illustrates the vital role of genealogical recordkeeping in Hawaiian society. Pūku'i speaks about ancient Hawaiian oral genealogies in a way that makes them sound fluid and organic, rather than the rigid and finite birth certificates in use today. The Hale Nauā was able to function, at times, like a

³² See E.S. Craighill Handy and Mary Kawena Pūku'i, *The Polynesian Family System in Ka'ū, Hawai'i*, Rutland and Tokyo, Charles E. Tuttle Company, 1972, 196-7. This work is, arguably, the most complete and dedicated piece of scholarship focused entirely on Hawaiian kinship, familial traditions and cultural practices. Handy and Pūku'i provide a fascinating look at the family system and insight into the relationships and practices that define life, both in the past and in the mid-twentieth century. This work, although extremely helpful, is specific to the area of Kā'ū, Hawai'i and the traditions that discussed therein are not necessarily indicative of the entire Hawaiian archipelago.

³³ Ibid.,197.

³⁴ Ibid.

courtroom where experts from both sides of an issue would come together and debate their claims.

Hawaiian Kinship

In Hawai'i, it was once customary for both men and women to take several "mates,"³⁵ giving rise to the term punalua (two springs). According to Pūku'i, the punalua was the name for the relationship between two men who had mated with the same woman, or two women who had mated with the same man.³⁶ Pūku'i says that the "true purpose of punalua as an institutionalized principle of relationship defined by a special term was the safeguarding of children arising out of or involved in a triangular relationship of two men to a woman or two women to a man."³⁷

While both Lorrin Andrews, in *A Dictionary of the Hawaiian Language*, and Lewis Morgan, in "Systems of Consanguinity and Affinity of the Human Family" in *Ancient Society*, detail their own interpretations of punalua, Pūku'i challenges their conclusions claiming that they both "mistranslated" the meaning of the punalua relationship.³⁸

In short, both Andrews and Morgan erroneously concluded that the term punalua was centered upon the kinship ties between the punalua themselves, rather than the duties that the punalua must fulfill in regards to the children of his or her mate and his/her other punalua. Andrews and Morgan seem content to discuss their imaginations of Hawaiians as incestuous and promiscuous, focusing on the logistical

³⁵ I use the term "mates" loosely to describe a definite sexual relationship, possibly a domestic partnership, between one man and one woman.

³⁶ Handy and Pūku'i, *Family Systems*, 197.

³⁷ *Ibid.*, 57.

³⁸ *Ibid.*, 61.

and sexual aspects of the term punalua, rather than relating the term to cultural context and actual usage.³⁹ Pūku'i explains that the term punalua is used to dictate the responsibility that each side of the punalua relationship has with any children born within that triangle. It was common for both ali'i and maka'āinana (commoner) to have punalua, and it was the duty of the punalua to treat the children of his/her partner punalua, as their own.

Po'olua (two heads) is a term used to describe dual parentage amongst the ali'i. Po'olua is different from Punalua because Po'olua describes the relationship between the child and his/her two fathers. Po'olua can be particularly advantageous to a child as it allows him/her to claim the genealogy of both fathers, increasing his /her mana and allowing him/her to create connections between two different ancestral lines.⁴⁰

A much lesser employed practice known as hua'ē (strange fruit) can further complicate mo'okū'auahu. Hua'ē was used when partners could not conceive a child, in order to produce an heir. Pūku'i details an instance of hua'ē when, having no living children, a husband and his mother create a plan to impregnate the wife using another man from their village. This man maintained a reputation of sleeping with any woman who he desired, so the husband created several opportunities for that man to go to his home when his wife was there alone. After several "opportunities," the wife found herself with child (and all the time remaining ignorant to her

³⁹ Ibid.

⁴⁰ Ibid., 54.

husband's plan) and the child lived. After her first child, she went on to bare several more children to her husband.⁴¹

My brief digression on notions of Hawaiian kinship serves to illuminate the intricacies of Hawaiian ideas of 'ohana and of mo'okū'auhau, and the ways in which Hawaiians traced genealogy through these complex relationships. As po'olua and punalua were habitually practiced in Hawaiian society, they intimately informed and defined the Native ideas of consanguineous relationships. The Hale Nauā was a necessary instrument to debate genealogy-based rank in a society with a family model that was generally inclusive of plural mating relationships.

While this way of thinking about Hawaiian kinship may seem archaic, it has, on some level, affected the kinship notions that Hawaiian families use today. Punalua, in the customary sense is not widely practice today, but a comparable function of the punalua is fulfilled through other members in the family. Perhaps a father or mother's brother or a cousin live in the home and as part of the mākua⁴² generation they have a responsibility to care for the children residing therein. This type of relationship is obviously not punalua, but it can be loosely compared with the form and function of punalua, a role which seems to transfer interchangeably between family members. While Pūku'i's customary notions of kinship are not prevalent at this time, the present idea of 'ohana runs parallel with the values inherent in terms of Hawaiian kinship. In my experience, 'ohana is a largely inclusive

⁴¹ Ibid.

⁴² Mākua is a word used for a parent, or any person in the same generation, for example: makuakāne, the term for father, is also the term used to describe an uncle.

term, acknowledging all types of individual relationships and their interconnection to the 'ohana unit, whether it was punalua, po'olua, or hua'ē in older times or more modern familial roles like step-father, half-sister, or a close family friend. Each of these roles include kuleana (responsibility) to care for the children, and alternately, the children have an entire collection of people whom they consider to be their mākuā, and those roles are respected accordingly.

Hawaiian Genealogical Practices

Edith Kawelohea McKinzie, Hawaiian scholar, translator and Kumu Hula, compiled two volumes of Hawaiian genealogies that appeared in Hawaiian language newspapers from 1834 to 1900. Edited by Dr. Ishmael Stagner, II of Brigham Young University Hawai'i, both volumes of *Hawaiian Genealogies* contain over 2,000 ali'i and maka'āinana family names. Although they are considered to be invaluable resources to genealogy researchers, the editor maintains that the accuracy of these genealogies is dependent upon the people who first submitted them for publication. Stagner agrees with Pūku'i, believing that genealogies are subjective and that "individual families may have in their possession more accurate information than what we have published."⁴³ He goes so far as to request submissions from parties wishing to correct information recorded in these volumes of *Hawaiian Genealogies*.

For this thesis, it is crucial to understand that Hawaiians saw genealogy (their form of birth records) as evolutionary and dependent upon constant involvement from the kākā'ōlelo (experts in genealogy) and the families whose

⁴³ Edith Kawelohea McKinzie, *Hawaiian Genealogies Vol. 2*, Honolulu, University of Hawai'i Press, 1983, xiii.

genealogies were being debated. Pūku‘i and McKinzie illustrate the aptitude that Hawaiians had for genealogical record keeping and effectively outline the process of "recording"⁴⁴ and correcting. More importantly, they explain the significance of these oral birth records in Hawaiian social stratification. The intricate checks and balances employed between familial genealogy experts and ali‘i genealogy experts during disputes proves that Hawaiians used genealogy as a path to power, but also understood and welcomed that genealogy was fluid and organic, even amongst the kākā‘ōlelo.

Kānaka history of keeping oral genealogical birth records is well documented, not only by the thousands of lines of mo‘okū‘auhau in the Hawaiian language newspapers, but further evidenced by Edith McKinzie's compilations of those same genealogies into two volumes of reference sources. Moreover, these genealogies, at times, sparked spontaneous debate amongst readers of the newspapers they appeared in.⁴⁵ I feel that by and large, many kānaka maoli have come to a place completely removed from our roots in genealogical knowledge. When I taught Hawaiian language classes at Sacred Hearts Academy⁴⁶ in Kaimukī,

⁴⁴ Oral "recording" as opposed to written recording.

⁴⁵ See Puakea Nogelmeier, *Mai pa‘a i ka leo: historical voice in Hawaiian primary materials : looking forward and listening back*, Honolulu: Bishop Museum Press, 2010. Nogelmeier analyzes an exchange between well-known scholar Samuel M. Kamakau and genealogist John K. Unauna, debating royal genealogies, using the Hawaiian language newspapers as a forum. Nogelmeier also demonstrates the necessity of exploring Hawaiian language newspapers as a source of not just genealogy, but general scholarship as well. He says that the Hawaiian language newspapers are an untapped *primary source* on Hawaiian history, culture, and politics, and any scholarly writings on Hawaiian subjects are incomplete without an examination of these valuable resources.

⁴⁶ A catholic all girls school with Pre-Kindergarten through twelfth grades.

many of my Hawaiian students did not know ancestors passed their own grandparents. I see my former students as symptoms of a larger challenge, because by losing their genealogical link they seem to have effectively severed the innate connection that their ancestors had with their natural and social surroundings. If, according to mo'okū'auhau, Hawaiians are direct descendants of the land through Hāloanakalaukapalili⁴⁷ that connection is reaffirmed and constantly strengthened through the passing on and remembering of genealogies. If a family ceases to continue this tradition and their children are never taught this kind of knowledge, how does it affect their worldview and their self-identification as a kanaka?

Discussions of Hawaiian kinship and mo'okū'auhau, when placed in conversation with public policy debates for entitlements, inevitably stall at the mention of hānai (adopted) children. On one hand, children, Hawaiian or non-Hawaiian, become part of a family when legally adopted, but the dynamics of the adoption change when a non-Hawaiian child is adopted by a Hawaiian family because that family may be eligible for entitlements that are specific to Hawaiians. The punalua relationship is directly related to hānai as punalua are considered to be hānai parents for all children resulting from that particular punalua mating. For DHHL purposes, Hawaiian blood quantum is traced through the applicant's birth

⁴⁷ See Lilikalā Kame'eleihiwa, *Native Land and Foreign Desires: Pehea Lā E Pono Ai?*, Honolulu: Bishop Museum Press, 1992. Kame'eleihiwa succinctly describes Hawaiian kinship using examples from Hawaiian genealogies, the Kamehameha family in particular. This work also serves to provide a history of Hawai'i and Hawaiian lands using archival and Hawaiian language resources, provides an important perspective on history, from a Hawaiian scholar. In the 'ōpūkahonua genealogy, Hāloanakalaukapalili is a stillborn child of Ho'ohōkūkalani and her father, Wākea (sky-father). They bury their stillborn child in the ground, and from his resting place, the very first kalo (taro) plant grew.

parents, regardless of whether or not the applicant was adopted by an already "certified" Hawaiian family. The issue of hānai children is a complex one, without an easy answer, but requires evaluation on a case-by-case basis in order to make an informed decision for, or against certification. If Pūku'i's descriptions of kinship were applied in terms to my comparison of a modern Hawaiian family, it would seem that Hawaiians, by-and-large, accept hānai children (whether adopted legally or not) as their own biological children. If hānai children are accepted as actual children of their parents, and even have altered birth certificates to illustrate their new family, it would then hold true that they be given the rights that any biological children would have.

Vital Statistics Records

As a direct result of the 1921 HHCA, the Hawaiian people effectively became two separate races: "native Hawaiians" of 50% blood quantum or more, and the rest of the Hawaiians, or those without the requisite blood quantum or *without the means* or documentation to prove their 50% or more blood quantum. The DHHL, under the authority of the HHCA, created their own method of certifying blood quantum, and the primary evidentiary support chosen was the bureaucratically issued birth certificate. Utilizing birth certificates as evidence in proving blood quantum presents numerous issues, not easily surmounted.

Hawaiians present an anomaly in this discussion of vital statistic records as legal documents, because the DHHL, and other bureaucratic and private agencies, are utilizing birth certificate as de facto proof of Hawaiian race. Vital statistics certificates were not devised as pieces of evidence intended to prove race, ethnicity

or ancestry. They were created first, in response to outbreaks of communicable diseases, and second, to improve the public health system. As these certificates were not initially meant to act as legal documents, their form has changed on several occasions since the first formal US vital statistics certificates were issued in 1900.⁴⁸ The "race or color" item was included on the very first edition of the standardized National birth certificate, emphasizing its importance to the bureaucratic issuing agency, the United States Census Bureau (formerly the United States Census Office).⁴⁹ Because these certificates were created in response to public health concerns over the transmittal of communicable diseases, diseases that statistically targeted the poorest of the population, correlations were drawn between race/color and social/economic status. These correlations were heavily reliant upon the determination of race/color as an underlying condition that raises an individual's risk factors. Birth certificates as legal documents used to prove blood quantum presents an entirely new quandary to the already burgeoning list of issues surrounding the theory of race.

Color, Ethnicity, and Race

Sociologist Aliya Saperstein, who specializes in demography, defines race as "a socially defined characteristic of individuals or groups that is related to the power distribution in society and can, therefore, vary over time, place and social context" and continues, venturing to explain that race is not "an innate, biologically determined characteristic that explains group ability rankings and group differences

⁴⁸ Hetzel AM, "History and organization of the Vital Statistics System," National Center for Health Statistics, 1997: 2.

⁴⁹ Ibid., 34-35.

in behavior."⁵⁰ Saperstein's interpretations of the word "race" are specifically applicable to this thesis, as her research centers upon self-identification of race for the purposes of bureaucratic statistics collecting, U. S. Censuses to be precise. If, according to Saperstein, in her role as a sociologist and demographer, race is constructed through social interactions and is constantly in flux, then including a "race or color" item on standardized birth certificates presents monumental obstacles to Hawaiians using the "race or color" item on their birth certificates to prove their blood quantum.

Dvora Yanow, a Political Scientist and Public Policy analyst out of Wageningen University in the Netherlands, provides an alternate perspective regarding the "race" and "ethnicity" categories used by the American government, in *Constructing "Race" and "Ethnicity" in America: Category-Making in Public Policy and Administration*. Approaching the analysis of bureaucratic categorization of "race" and "ethnicity" through phenomenology, Yanow focuses equally on the assumptions made in the categorization of the population by race, and the lived experience of the individual being categorized.⁵¹ One of her primary arguments has to do with the terms "race" and "ethnicity" and the actual ambiguity of the terms, and how it

⁵⁰ Aliya Saperstein, "Double-Checking the Race Box: Examining Inconsistency between Survey Measures of Observed and Self-Reported Race" in *Social Forces*, vol. 85 no. 1, 2006: 57-74, 57.

⁵¹ Dvora Yanow, *Constructing "Race" and "Ethnicity" in America: Category-Making in Public Policy and Administration*, Armark and London: M. E. Sharpe, 2003, viii.

affects, and is affected by, the "common sense"⁵² understanding of those same terms. Yanow provides several definitions for the terms "ethnic" and "race:"

"ethnic 1. Of or pertaining to a social group. . . on the basis of complex, often variable traits including religious, linguistic, ancestral, or *physical* characteristics.

(*American Heritage Dictionary* 1975, p. 450)

1a. Of or pertaining to sizable groups of people sharing a common and distinctive *racial*, national, religious, linguistic, or cultural heritage.

(*American Heritage Dictionary* 1992, p. 630)

2. Pertaining to *race*; peculiar to a *race* or nation; ethnological.

(*Oxford English Dictionary* 1971, p. 313)

2a. Pertaining to *race*; peculiar to a *race* or nation; ethnological. Also pertaining to or having common *racial*, cultural, religious, or linguistic characteristics. . .; hence (U.S. colloq), foreign, exotic.

(*Oxford English Dictionary* 1991, p. 423)

1. Of or relating to a religious, *racial*, national or cultural group.

(*Websters II New Riverside University*, 1984, p. 423)

race 1. A local geographic or global human population distinguished as a more or less distinct group by *genetically transmitted* physical characteristics.

(*American Heritage Dictionary* 1975, pp. 1074-51 1992, p.1488)

I. A group of persons . . . connected by *common* descent or *origin*.

II. A group or class of persons . . . having some common *feature* or features.

(*Oxford English Dictionary* 1971, p. 87; 1991, p.69)

3. A group of people united or classified together on the basis of common *history*, *nationality*, or *geographic distribution*.

(*Websters II New Riverside University*, 1984, p. 968)⁵³

Providing these definitions is an attempt to highlight the ambiguities between the terms "race" and "ethnic" and serves to underscore Yanow's theory, that while it is possible for the government, of America in this case, to fix the definitions of either

⁵² The "common sense" definition that Yanow alludes to, refers to the colloquial usage of the terms "race" and "ethnicity."

⁵³ *Ibid.*, 47. All emphases added by Yanow.

"race" or "ethnicity" (by including them as categories on vital statistics forms), the terms retain their ambiguity for the non-governmental collective, as the population does not share in the finite definitions of either "race" or "ethnicity" as decided by the government. The confusion experienced by the general population, when providing information for vital statistic certificates can, as discussed earlier in this thesis, account for numerous errors, particularly in the early years of recording when methods for data collection were dubious, at best.⁵⁴

To account for the ill-defined terms "race" and "ethnicity," Yanow offers the use of her term, "race-ethnic," in order to highlight the ambiguity of each single term, and encompass all definitions, real or otherwise, that are used interchangeably when discussing "race" or "ethnicity." Following Yanow's methodological approach, it is necessary to interrogate the meanings resulting from the "creation and enactment of public policies, rather than on a priori academic of dictionary definitions."⁵⁵ Specifically for k̄anaka, what is the perceived difference between "Hawaiian," "native Hawaiian," "Native Hawaiian," and "part Hawaiian," outside of the intended usage? Yanow contends that too much focus is lost in the theoretical preoccupation of what race "*should*" mean, rather than a focus on the "race-ethnic discourse most commonly in use in the United States today."⁵⁶

⁵⁴ Specific cases of "dubious" recording methods can be found on p

⁵⁵ Yanow, *Constructing "Race" and "Ethnicity"*, 2003: ix.

⁵⁶ Ibid., 5. Kanaka maoli scholar Rona Tamiko Halualani did an ethnographic study of Hawaiians in the process of applying for Hawaiian homeland leases through DHH in *In the Name of Hawaiians: Native Identities and Cultural Politics*, University of Minnesota: Minneapolis and London, 2002.

For a kānaka, what is the difference between these categories of "Hawaiians"? What is a "native Hawaiian" versus a "Native Hawaiian"? It has been my experience that, more often than not, people are unfamiliar with the legalese definitions of the terms "native Hawaiian" and "Native Hawaiian." In my family, everyone over the age of ten is familiar with the 50% blood quantum requirement, but I doubt that any of them could explain the differences in the above list of "Hawaiians." Yanow is vital to this discussion of blood quantum certification because she creates the reasonable doubt needed when discussing the validity of vital statistic records. If the government relies on the general population to provide accurate information, then the government bears the burden of assuring that that population understands how and why certain information is collected, and for vital statistics information, birth certificates in particular, this is not the case. If the box for race/color is poorly defined, casting doubt upon the correctness of the information, how can that information carry the weight of importance that it does for kānaka?

The categorization of a population using "race-ethnicity" as a characteristic seeks to group certain similar people together, but similarly, it serves to categorize this population as distinct and different than other races. Through the creation of public policy, including terminology and language used, identities are assumed and defined according to definitions inferred on the population by its governing bureaucratic agent. For Hawaiians, the HHCA was the public policy, which categorized one "race-ethnically" homogenous group of indigenous people into two "race-ethnic" categories which, rather being linked by their similarity (i.e. being of

Hawaiian ancestry) were, and continue to be, segregated and defined by their heterogeneity.

The construction of these categories or "classifications" by public policy makers, according to Yanow, "entails an interpretive choice –a judgement–based on the relative importance of certain features over others." In the kānaka case, politically, there are but only a few categories available: native Hawaiian (as defined by 50% or more blood quantum), Native Hawaiian, or part-Hawaiian. In this sense, the Department of Hawaiian Home Lands, thanks to the HHCA, has the daunting task of designing a method of certifying blood quantum. This method, essentially, certifies certain Hawaiians into existence, at least in terms of eligibility for certain entitlements, and de-certifies all other Hawaiians into extinction, defined by their lack of recognition by the governing bureaucracy. This process of certification presents a completely foreign view of identity and mo'okū'auhau, in comparison to the ways in which Hawaiians collected and recorded their own genealogies, remembered familial descent lines, and lived their concept of 'ohana.

There are some uncanny parallels in a Hawaiian perspective of genealogy, and Yanow's discussion of "race-ethnicity." As discussed earlier in this chapter, the kānaka erected structures (Hale Nauā) devoted solely to the practice of mo'okū'auhau, along with the ability for genealogy to be challenged and changed is evidence of the importance of genealogy, but also evidence that genealogies were *fluid*. Hawaiian mo'okū'auhau had to account for Hawaiian notions of relationships and kinships, which fall outside the westernized view of the family unit. There are several cases of ali'i who would be considered "po'olua," literally two heads, or

referring to a child, whose mother "lived" with two chiefs during the same time frame or "in close succession," this po'olua relationship, according to Professor of Hawaiian Studies Lilikalā Kame'eleihiwa, would give the child even more mana, as they had the ability to claim genealogy from their mother and two different fathers.⁵⁷ Both the chiefly and the commoner class participated in a relationship called "punalua," literally two springs, referring to two "lovers" sharing a single mate, either at the same time, or one immediately following the other; punalua relationships can happen between two men and one woman, or two women sharing one man. Punalua relationships required that the children from one side of the punalua relationship be accepted and cared for by *all* members of the punalua relationship.⁵⁸ Like po'olua, children conceived by a punalua relationship have the ability to claim multiple genealogical lines. Hua'ē, according to Pūku'i, differs from punalua in that children of those unions are cared for solely by their mother and her mate, rather than the biological father.

Hawaiian notions of kinship and the family system dictate the fluidity of Hawaiian genealogies, a fluidity that allowed children to utilize the genealogical line that would serve them best in a particular instance. Examining race from this kānaka perspective, the individual experience of race would have to be congruent across social, political, spiritual and economic lines, in order to be considered in the same sampling for analysis. The "race-ethnic" experience is nothing, if not individual. Yanow points to individuals who do not fit into any one "race-ethnic

⁵⁷ Lilikalā Kame'eleihiwa, *Native Land and Foreign Desires: Pehea Lā E Pono Ai?*, Honolulu: Bishop Museum Press, 1992, 43.

⁵⁸ *Ibid.*, 44.

category construction," explaining that each category implies and imposes a certain set of traits for the individual, and because of these implications, individuals do not identify with only a single "race-ethnic category as propounded in American policies administrative practices.⁵⁹

While the DHHL is the governing State entity engaging in blood quantum certification, it is the creation of the blood quantum requirement by introduction of new, and irresponsible, public policy (i.e. HHCA), which coerces the DHHL to certify Hawaiians into existence, or into extinction. Using "race-ethnicity" as a determinant for public policy, under the guise of creating equality, actually allows for blatant discrimination by the American bureaucracy, and it presents an even more detrimental repercussion to the Hawaiian people.

Conclusion

Mo'okū'auhau, or Hawaiian genealogy, was an essential practice in pre-Contact Hawai'i as evidenced by the establishment of the Hale Nauā. While Hale Nauā I was eventually abandoned, the practice of preserving mo'okū'auhau continued, strengthened even, in post-Contact Hawai'i. When the first Hawaiian language newspapers began being printed in 1834,⁶⁰ mo'okū'auhau made up a significant portion of space on its pages. The Hawaiian language newspapers are a technological advancement which facilitated the continuation of the kinds of genealogical debates that took place in the Hale Nauā. An understanding of the utmost importance of mo'okū'auhau, along with an understanding of the

⁵⁹ Yanow, *Constructing "Race" and "Ethnicity,"* 2003, xi.

⁶⁰ The first Hawaiian language newspaper, *Ka Lama Hawai'i*, was printed at Lahainaluna School on Maui beginning in 1834.

complexities of Hawaiian kinship, assist in illustrating potential challenges implicit in the newly introduced recording of vital statistics.

Introduced as an innovation in demographics, vital statistics records took a tradition of fluid and debatable genealogy and transfixed those family histories to a piece of paper which, over the years, became legally binding documents defining racial and ethnic identity. Vital statistics certificates, along with the US census, provide the demographic information which informs public policy designed to target the destitute population, but the creation of finite categories of "race-ethnicity" within bureaucratic record keeping fails to account for all races/ethnicities with which people self-identify. These kinds of documents, i.e. birth, death and marriage certificates, are problematic because the documents assume that the general public understands what each category means, particularly race/ethnicity, and provide accurate and complete information. This discussion of validity of information on official documents has again circled back to a place where government agencies and the general population do not speak the same language. If the government is asking people to self-identify their race/ethnicity as an open-ended question, then there is an infinite number of possible replies: White, Black, Red, Indian, Hawaiian, American, French, Samoan, or Polynesian. When this information is applied to the context of the HHCA, it reemphasizes the capacity for the categorization of "native Hawaiians," through their certification by the DHHL, to be incomplete and incorrect when based upon these vital statistics records.

CHAPTER 3. PRIMARY DOCUMENTATION

My kūkū, like many other kūpuna (grandparents) her age, loves the "ninth island."⁶¹ She makes her yearly pilgrimage, if she can afford it, to her Mecca armed with the green jade good luck frog, her good luck red blouse and whatever cash she has saved up to gamble. This year, she hit a bit of a speed bump in preparation for the annual huaka'i (trip). My aging Kūkū had somehow let her license expire and had no alternative government issued identification to get through the airport security checkpoint. She had to scramble to try to get her documents in order to head to Satellite City Hall and get her a State ID. The one document she could not find was her birth certificate.

As it has happened an infinite number of times, several nieces, nephews,⁶² grandchildren and great-grandchildren called to borrow her birth certificate, which they needed in order to certify their Hawaiian blood for DHHL, KS, and several post-high school scholarships. She could not remember who was the last person she gave it to, and she tried calling everyone, but still could not locate it. I thought I could just use the Department of Health's (DOH) new online ordering system and we would have her certificate sent to her without having to set foot in the downtown traffic. The only problem of using the online system was that, according to their website the

⁶¹ Las Vegas, Nevada, because its popularity as a vacation destination with people from Hawai'i, has been nicknamed the "ninth island."

⁶² Nieces and nephews needed her birth certificate because their father did not have "Hawaiian" listed as his race/color on his birth certificate.

DOH was averaging 6-8 weeks to retrieve, print, and mail records to a home address, unless one could show proof that the certificate needed to be "rushed."⁶³

To make a long story short, my mother sent Kūkū's Las Vegas itinerary to the DOH along with \$14 (\$10 for the first copy, \$4 for each additional), and her certificate arrived the following week. As we had already seen a copy of her "Certificate of Hawaiian Birth" and had used it on several occasions, my family was shocked when they received Kūkū's "Certificate of Live Birth" in the mail and there were several errors. Kūkū has said, time and time again, that her birth year is listed wrong on the original record, and so are the birth years for her brothers and sisters. We were already prepared to see 1931 as the birth year, rather than 1930, but we were shocked when the computer-generated copy of her "Certification of Live Birth" gave Kūkū a 1930 birth year. In addition, the "ethnicity" of Kūkū's father is listed as "American," and Kūkū's sex is listed as "male." When confronting the DOH staff regarding these discrepancies, the staffer nonchalantly informed us that those errors must have been on her original certificate, and in order to make changes to the original, Kūkū would have to be seen by a doctor who would need to confirm her biological sex as "female."

What the DOH staffer presumed was that in the process of digitizing vital records certificates in 2001, all information was transferred accurately. After much insistence on our part, the staffer said that she would have to wait for a few days

⁶³ The DOH website says that for "Same day service may be provided upon presentation of written documentation establishing the need for urgency." Vital Records, Department of Health, <http://health.hawaii.gov/vitalrecords/how-to-apply-for-certified-copies-of-vital-records/>, (accessed November 30, 2014).

until she could go down to the basement to physically search for the paper copy of Kūkū's birth certificate, and if that certificate differed from the computer generated copy, then she would be able to make changes to the digitized certificate.

The Birth Certificate

Hawaiians must use this legal piece of identity documentation (i.e. the birth certificate) in a manner that is fundamentally disparate from any other race of peoples in the US. Hawaiians, like Kūkū, are using this government issued document to prove their racial/ethnic make-up to the DHHL (the state entity) in order to qualify for lands that were illegally stolen from the Kingdom of Hawai'i.⁶⁴ This seemingly benign piece of paper holds infinite power in the context of proving blood quantum, as it is the primary evidentiary support document accepted by the DHHL. This part of the thesis will examine the birth certificate and look at how and why it was created; how it has changed over time; how and why it is being used today, by the DHHL, to certify Hawaiian blood quantum. This section of the thesis will also discuss the history of the birth certificate in Hawai'i, with pertinent innovations in recording, which were implemented nationally after Hawai'i became a territory of the United States.

In regards to "primary documentation," DHHL says:

Birth certificates and "Certificates of Hawaiian Birth" are the primary

⁶⁴ For more on the ramifications of the illegal overthrow of the Hawaiian Kingdom, see: Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism*, Durham: Duke University, 2004; and J. Kēhaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity*, Durham and London: Duke University, 2002.

documents used to determine native Hawaiian qualification. THESE PRIMARY DOCUMENTS MUST BE EXHAUSTED BEFORE SECONDARY DOCUMENTS WILL BE ACCEPTED. Please submit certified copies of original birth certificates, or computer-generate certificates of live birth.

If the State Department of Health does not have a birth certificate on file for any of your parents or grandparents, you must obtain a "no-record certification" from the State Department of Health (DOH). A "no-record certification" tells the Department of Hawaiian Home Lands staff that the DOH searched its files and cannot find the records requested. At a minimum, the DHHL asks that applicants produce certified copies of birth certificates, certificates of Hawaiian birth, or no-record certifications for the following people:

- Yourself
- Your natural father;
- Your natural mother;
- Your natural father's parents;
- Your natural mother's parents; and
- Your natural great-grandparents if applicable (i.e., submit if your grandparents were born after the 1920s)⁶⁵

The emphasis placed on birth certificates is easily understood when reviewing the previous instructions to DHHL applicants. Birth certificates are a necessity when attempting to gain a lease from DHHL, but if none are available, an applicant must seek a "no-record certification" back three generations. This is an interesting piece of discussion because while Hawaiians are attempting to appease DHHL's application requirements, they must first deal with the DOH's vital statistics division. As I will discuss in this chapter, DOH has presented several roadblocks that deter Hawaiians from gathering the proper documentation that DHHL requires.

⁶⁵ "Instructions for Applying for Homestead Lease," State of Hawaii DHHL, 2011.

The Origins of Birth Registration

The high numbers of immigrants settling in the Northeastern United States in the early nineteenth century resulted in overcrowding in the urban areas, mostly of poor immigrants living in deleterious conditions.⁶⁶ Because of the large numbers of the destitute urban population, basically living in squalor, "data-driven solutions" became an answer to this growing health concern in the Northeast.⁶⁷ As part of these data-driven solutions, it was necessary to create a system to record and collect vital records of births and deaths, and the very first birth certificates were created to assist in tracking public health interventions.⁶⁸ Interestingly enough, it was not until more than fifty years later, in 1900, that the Bureau of the Census created the first standardized "Certificate of Live Birth" registrations.⁶⁹ From 1900 the Bureau of the Census and, later, the National Office of Vital Statistics made updates to the standardized birth certificate nearly every ten years with the number of items increasing from 33 in 1900, to over 60 in 2003.⁷⁰ The information required on birth certificates in the year 1900 included mostly personal data such as maternal address, age and race, legitimacy, and paternal name and age, and number of previous live births.

From the early 1800's until the turn of the 20th century, birth certificates were created and utilized as a tool to aid in monitoring and improving public health,

⁶⁶ Brumberg, HL, D Dozor and SG Golombek, "History of the birth certificate: from inception to the future of electronic data," *Journal of Perinatology*, vol. 32: 407-411, 2012, 407.

⁶⁷ Ibid.

⁶⁸ Ibid.

⁶⁹ Ibid., 408.

⁷⁰ Ibid.

in the face of concerns over outbreaks of tuberculosis along with other communicable diseases, amongst the overcrowded urban immigrant population. It was not until World War II that birth certificates began to be widely used in an arena outside of public health as they became proof of US citizenship, proof which was required for individuals to be eligible for employment. In addition, the onset of World War II brought concerns over a "general decline in national health resulting from wartime living conditions."⁷¹ The war brought concerns of overcrowding of young people in training facilities and barracks, these venues being prone to outbreaks of disease, while there continued to be a shortage of hospitals to house a large influx of patients and a shortage of doctors able to treat this potential rash of disease. Essentially, public health officials feared that these wartime living conditions were breeding grounds for epidemics of massive proportions, and these fears led to the creation of the death certificate.⁷²

W. A. Plecker, M.D., State Registrar of Vital Statistics for Richmond, Virginia, published an article in 1914 in the *American Journal of Public Health* implying that birth certificates were too complicated to be completed, and there was a need for a change in wording for the categories recorded on birth certificates. Plecker maintained that a standard certificate of birth must contain "simplicity in wording, considering in all cases, the lowest rather than the highest educational attainment of

⁷¹ AM Hetzel, "History and Organization of the Vital Statistics System," *Vital Statistics of the United States*, vol. 1: 1-19, 1950, 11.

⁷² Ibid.

those who are to make use of them."⁷³ Plecker's article details several suggested improvements to the State of Virginia certificate of birth, most pertinent to this discussion is a suggestion regarding entering information on race of the child. While previously birth certificates contained a category for "color" of the child, Plecker cited the various responses related to hair, eye, or skin color, i.e. blond, brunette, light-skinned, or dark-skinned. In order to create uniformly standardized data, he further suggested the "color" box be changed to a box for "color or race" of the child, and although the word "race" might not be widely understood, when used in context with the word "color," the meaning of the word "race" would become more apparent, and glean the intended results.⁷⁴

Although Plecker's article is speaking directly to birth certificates in the state of Virginia, his observations are vital to an argument regarding the validity of birth certificate data, as he brings in to question the verbiage used to gather information on race. At the very least, Plecker's experience illuminates the challenges of relying on race data of birth certificates using "color" instead of "race or color." Depending on the education level, experience, and understanding of the process of completing the forms, birth certificate data can, as illustrated by Plecker, contain widely varying and completely inaccurate data. In addition, Plecker cites an example, claiming "many local registrars and others make out certificates for illiterate midwives and sign their names without explanation, though they may be present."⁷⁵ Plecker's

⁷³ W. A. Plecker, "A Standard Certificate of Birth," *American Journal of Public Health* vol. 5 no. 10, 1915: 1044-1047, 1047.

⁷⁴ Ibid.

⁷⁵ Ibid.

article elucidates some very tangible issues surrounding the usage of the race/ethnicity data from birth certificates. It would seem, that to make the birth certificate more valuable and usable to the entire population, the form would need standardizing in order to limit the answers to a pre-set number of responses, making the form more easily measurable and traceable in the long term. Some major problems surface when categories that do not elicit exact answers are added to the birth certificate.

It would seem necessary here, to digress a bit and discuss the origin of the birth certificates which begat Plecker's discourse on standardization. In Great Britain and Ireland in 1832, more than 42,000 lives were lost to an outbreak of cholera that swept across the kingdom and devastated much of the population. It was this epidemic along with a general lack of vital statistics records in England that spurred the first legislation in 1836 which created a central registrar's office in England tasked with creating and archiving records of births, marriages, and deaths.⁷⁶ This Act of 1836 was the catalyst for the first American foray into vital statistics legislation in Massachusetts in 1842. A young politician from Boston, Lemuel Shattuck, founded the American Statistical Association in 1839, where he convinced the American Academy of Arts and Sciences and the Massachusetts Medical Society to begin pushing the legislature to create laws that would force the States to begin standardized vital statistics registration.⁷⁷ While a few States already had laws that dictated death statistics, this act was the first large-scale legislation to

⁷⁶ Hetzel, "Vital Statistics," 46.

⁷⁷ Ibid., 45.

produce an entire system to record vital statistics⁷⁸. It was Shattuck's perseverance throughout that transformed simple records of life events into an advanced method of statistics keeping, enabling thousands of people at a time to track the information. Shattuck improved the usability of vital records by standardization, and promoted these records as an indispensable tool to physicians and hospitals, and not just the public health system. While in theory, Shattuck's system should have revolutionized vital statistics records in the US, in practice, the system was far from perfect.

Shattuck's endeavor into vital statistics recording culminated in his participation in the 1850 US Census in which he introduced a new form of record dubbed "census enumeration" which received information from each individual, rather than from entire families.⁷⁹ The official report from this census which testifies as to errors in information relayed to census takers, is evidenced in the following quotation:

the tables of the census which undertake to give the total number of Births, Marriages, and Deaths, in the year preceding the first of June, 1850, can be said to have but very little value. Nothing short of a registration system in the States can give the required data satisfactorily, and it has been proved that even where such systems have been best established, difficulties continually arise which require a very long time to be removed. *Experience has shown that people will not, or cannot, remember and report to the census taker the number of the facts, and the particulars of them, which occur in the period of a whole year to eighteen months prior to the time of his calling.*⁸⁰

This section of the report highlights an important aspect of vital statistics records, which is human error. While human error may or may not be intentional, it is inherent in this process. The solitary piece of this entire process that remains

⁷⁸ Ibid., 46.

⁷⁹ Ibid.

⁸⁰ Ibid., 11. Emphasis added.

unaccounted for is the human aspect. While vital statistics become a nifty tool for medical professionals and social scientists, much, if not all, of the information on these records is supplied by humans who are not active and participating members of the scientific community which created the records. While not being a scientist or even an academic does not nullify one's ability to provide accurate information, the intent in this transfer of information is disparate. On the one hand, scientists are attempting to gather statistics which will help an academic and political community create science, statistic, and medical based solutions to public health issues. However the general public answers these vital statistic inquiries without the same knowledge of the procedure and the intent of the inquiries which is just one of the many aspects of vital statistics recording that can deem the resulting records unreliable.

When examining these ideas next to a Hawaiian concept of genealogy, the two are separated by the degree of importance to which Hawaiians paid to mo'okū'auhau. While there must be a degree of difficulty with the practice of mo'okū'auhau precisely because it relied completely upon an individual's interpretation of information, and fully supported that genealogies were fluid and changing, the information supplied was not considered to be "unreliable." It must be kept in mind that for kānaka, genealogy was a daily practice and one that clearly defined social stratification and societal hierarchy. In the current and recent context, genealogy does not carry nearly the same socio-political weight that it did historically for kānaka.

Plecker along with AM Hetzel's "History and Organization of the Vital Statistics System" provides an interesting frame to begin dissecting the aspect of "race or color" on vital statistics records, birth certificates particularly, and the intention behind including that category on the record versus the way that the "race or color" category was possibly interpreted and answered by the public. Hazel V. Aune, chief of Registration Methods at the National Statistics Division of the U. S. Public Health Service, tackles this query in a paper presented at a Joint Session of the American Association for Vital Records and Public Health Statistics, and the Statistics Section of the American Public Health Association in 1961. With respect to the importance of vital statistics as a whole, Aune maintains that vital records, which became legal documents, are a necessary and integral part of government agencies, commercial interests, and the public health field, as these entities are dependent upon the statistics derived from vital records.⁸¹

Race and Color in Vital Statistics Records

In her article, Aune campaigns for the continued inclusion of the "race or color" item on vital statistics records, partly in response to mounting pressure from the public to remove the category because of racial discrimination implications. Aune asserts that with each and every change made to the standard vital statistic certificates,⁸² the suggestions are acutely scrutinized and evaluated "in terms of future as well as current usefulness for registration, legal, medical and research

⁸¹ Aune, Hazel V. "Implications of the Race-Color Item for National Vital Statistics." *American Journal of Public Health* vol. 52 no. 4, 1962: 663-665, 663.

⁸² Aune uses the term "vital statistics certificates" to refer to bureaucratically issued certificates of birth, death, marriage.

purposes," solidifying the importance of the "race or color" item, as it has survived numerous reevaluations since 1900.⁸³ In addition, Aune espouses that public health authorities, demographers, and medical professionals agree that race greatly increases the value of vital statistics by showing where "whites, Negroes, and persons of other origins differ in terms of fertility, disease experience, mortality, geographic distribution, and other characteristics."⁸⁴ It is these vital statistics, categorized by race, which can then be "employed to determine where programs are most needed and how funds for public health, education, and other public services can be most wisely invested," and conversely, vital statistics can then evaluate the success of these programs.⁸⁵ Aune generalizes that many bureaucratic agencies rely on vital statistic certificates as legal documents, and that race is a needed category in order to verify personal identity, particularly in regards to birth, death and marriage records.

An avid participant in the bureaucratic vital statistics system, Aune is a vocal advocate for the "race or color" category as a necessity to generate useful statistics at the National level. While she makes a compelling argument for the continued collection of race data, she makes no mention as to the accuracy of the data or methods employed when collecting race data. Since Aune is primarily concerned with creating accurate statistical records, I find it curious that she has ignored a discussion on race and self-identification. As the "race or color" item is infinitely important because of its potential economic ramifications in the form of Federal and

⁸³ Aune, "Implications of the Race-Color Item", 664.

⁸⁴ Ibid.

⁸⁵ Ibid.

State funded health and wellness programs targeting a certain population, accuracy of the "race or color" item becomes crucial. It would seem that, according to Aune, the primary importance of vital statistics are categories which can be attested to and proven by a physician, including sex, fetal deaths, and cause of death. However, these statistics are intimately informed by the "race or color" category which is a question of self-identification much more than a question of actual racial make-up. Aune shows minimal concern with the accuracy of these "race or color" statistics. Thus it makes me question the way ethnic Hawaiians are being forced to produce these certificates as de facto proof of Hawaiian blood.

In conjunction with Hazel M. Aune's presentation at the Joint Session, two supplemental papers were presented focusing on the "race or color" item in vital statistics recording. G. Franklin Edwards, Professor of Sociology at Howard University makes a case for the continued use of race recording by focusing on social implications, past, present, and future of vital statistics. His very first, and most poignant anecdote alleges that the "differentials" in access to health care between whites and non-whites have been investigated and the conclusions have been used to create and implement programs "for the improvement of life chances."⁸⁶ In particular regard to fetal deaths, Edwards attributes the "sharp reduction" to the programs instituted as a result of vital statistics on race. While Edwards offers this anecdote as proof of the importance of collecting information on race for vital statistics, Edwards also says that "public clinics have been provided for

⁸⁶ G. Franklin Edwards, "Social Implications of the Race-Color Designation." *American Journal of Public Health* vol. 52 no. 4, 1962, 671-675, 671.

the prenatal care of women who are unable to afford private medical services."⁸⁷ It would seem that in this particular case, Edwards contradicts himself because the information used to create medical clinics to support women was not reliant on the race information itself, but reliant on the social tropes associated with the non-white population. Race, in this case, was not essential to gathering information to create medical clinics in the most advantageous locations, it was more important to assess the mother's financial situation at the time of birth, and geographic location of her residence. Theoretically, medical clinics could have successfully planned, built, utilized medical facilities in needy areas without the disclosure of race. If financial and geographical information was provided, the statistics would more accurately enumerate which mothers from what areas could not afford health care, regardless of "color or race."

Edwards seems to echo Aune's sentiment, that race is important, but more as an "independent variable to extend the scope of . . . investigation."⁸⁸ In other words, race is most important as an aspect of statistics which give them practical value and enhance their possible usage. In another example, Edwards discusses the inclusion of race data on marriage certificates attesting to the benefits of having information on "new family formations" by race (i.e. inter-racial marriage) because it will directly inform population forecasts and needs for housing, health, and welfare services.⁸⁹ Edwards continually emphasizes the need for non-white statistics to compare with white statistics as these statistics "vary widely" in many categories

⁸⁷ Ibid.

⁸⁸ Ibid., 672.

⁸⁹ Ibid.

relating to fertility, and degree of family stability. Edwards' goal is to strengthen Aune's argument for the continued inclusion of the "race or color" item on vital statistics. From a critical perspective, his article does more for the opposition. Edwards' attempts to dismiss the adversarial argument that race information on personal legal documents like birth, death, and marriage certificates violates privacy and individual rights, and "may lead to preferential treatment or discriminatory action."⁹⁰ He further cites this opposition as highly politically motivated and while it would appear that the opponents desire to "eliminate discrimination," their "latent motive" is an appeal for racial support.⁹¹ Edwards decidedly makes bold accusations against opponents of the "race or color" item and attempts to flippantly toss their concerns aside by insisting that race data is needed for the greater public good. Edwards hammers his point home contending that even if race was removed from vital statistics records "when individuals are of a mind to practice discrimination, they usually contrive methods for doing so."⁹² Thoroughly more appalling, Edwards continues his rant claiming that opposition to the "race or color" item should actually be the most vocal supporters for the inclusion of race on vital statistics records because it can "afford the minority group the best protection it can hope to have."⁹³ Edwards comes to the conclusion that race data should be included as long as the "considerable differences" between white and non-whites exists and that the

⁹⁰ Ibid.

⁹¹ Ibid., 673.

⁹² Ibid., 674.

⁹³ Ibid.

wide-reaching benefits of race statistics outweigh the inevitable cases where discrimination will result from these kinds of race records.⁹⁴

The final paper in this series, presented as a companion to the previous two given by Aune and Edwards, is from Carl L. Earhardt, Director of the Bureau of Records and Statistics, Department of Health, State of New York. Earhardt writes specifically about actions being undertaken in the State of New York, actions which effectively provide an amiable solution to the issue of race recording on vital statistics records. Earhardt describes the 1961 format adjustments made to birth, death, and fetal death certificates in New York stating that the principal revision was the relocation of the "race or color" item from the front side of the record to the rear "confidential medical report."⁹⁵ This change is of monumental significance in New York as every vital statistic certificate issued after 1961 will not contain a reference to race or color.

Earhardt claims that this simple change in the certificate facades will quell concerns over possible discrimination resulting from the previously unrestricted reporting of race. Similarly, moving race to the confidential section of the birth certificate still allows for statisticians to access race information for "scientific purposes," which will appease public health officials and scientists like Aune and Edwards.⁹⁶ Earhardt seems to have found the answer to this debate raging amongst politicians, public health officials, social scientists and the general population, but

⁹⁴ Ibid.

⁹⁵ Carl L. Erhardt, "Race or Color on Vital Records: Why Confidential?," *American Journal of Public Health* vol. 52 no. 4, 1962, 666-70, 666.

⁹⁶ Ibid.

the uncertainty remains when the New York State Public Health Code allows for access to the "confidential medical report" to aid criminal investigations or proceedings, or for scientific purposes.⁹⁷ Use of race data may be granted to scientific studies focused on epidemiological research, projects of governmental health agencies, or to compile statistics of disease and mortality rates.⁹⁸ Realistically, the major change in New York State vital statistics certificates is that no individual or private entity is able to utilize potentially harmful race information from these bureaucratic records, and the government, so long as their actions can be classified as "scientific," has free reign over race information.

According to Earhardt, the impetus for this debate of inclusion versus exclusion of race data was the establishment of the New York State Commission Against Discrimination, who "requested justification of the need for stating race or color on any form where such an item is included."⁹⁹ Further, the State of New York instituted a requirement specifying that all State agencies refrain from using any forms or making unnecessary requests which require an individual to provide

⁹⁷ Ibid.

⁹⁸ Full text of the *New York State Health Code* §201.07 "Confidential medical report of birth; not subject to compelled disclosure subpoena or inspection."
 (a) The confidential medical report of birth shall be confidential and not subject to compelled disclosure or to inspection by persons other than the Commissioner or authorized personnel of the Department, except in a criminal action or criminal proceeding, or for official purposes by a federal, state, county or municipal agency charged by law with the duty of detecting or prosecuting crime. The Commissioner may, however, approve the inspection of such medical reports for scientific purposes.
 (b) Within the context of this section, scientific purposes shall mean epidemiologic surveillance, and investigation by a governmental public health agency, research, or the compilation of statistics relating factors bearing on disease incidence, prevalence, mortality or treatment.

⁹⁹ Earhardt, "Race of Color on Vital Statistics," 666.

information on race.¹⁰⁰ Earhardt describes several actual situations encountered by medical personnel, where parents provide answers to the "race or color" item, which fall outside of the normal expected responses. Two examples Earhardt provides to prove his point are: a Negro and white couple who requested that their "race or color" be labeled "human;" and a set of parents who requested their "color" be amended from white to pink, "based on the melanin scale readings."¹⁰¹

As concerns of racial discrimination became increasingly prevalent in New York, so did these kinds of personal concerns over providing the bureaucratic governing agencies with information regarding their race, and the race of their child. The general public also, on occasion, outright refused to provide any identifying racial or color information to complete birth certificates following the birth of a child, and in these cases, the Department of Health could, theoretically, require the hospital superintendent or the attending physician to complete the birth certificate based upon their own best judgment of the facts.¹⁰² By citing the numerous examples of ways in which collecting racial data can be problematic, Earhardt solidifies the importance of moving the "race or color" item to the confidential section of vital statistics certificates. The National Vital Statistics Division highlighted the fact that rights of American Indians could be affected negatively if

¹⁰⁰ New York Governor Nelson Aldrich Rockefeller, through executive order, established the Code of Fair Practices. Article VII states: "All State agencies shall avoid in forms or requests for information any item or inquiry expressing any limitation or specification as to race, color, creed, national origin or age, unless the item or inquiry is expressly required in good faith for a proper purpose and prior notification of its use has been given by the agency to the State Commission against Discrimination."

¹⁰¹ Earhardt, "Race of Color on Vital Statistics," 667.

¹⁰² Ibid.

the "race or color" item was removed completely, concerns which were later squashed by the commissioner of Indian Affairs, who asserted that the Bureau of Indian Affairs relies upon their own records in making decisions regarding race.¹⁰³ This case is compelling because it sets a precedent for kānaka who could also possibly utilize their own records like an orally recited mo'okū'auhau as evidence of race. Even more so, because of the relationship that the Bureau of Indian Affairs has with the US government and its own people, it provides an example for kānaka to gauge what their own relationship to the American government could look like and the ways in which that relationship could change the way kānaka are accepted as eligible for Hawaiian entitlements.

Earnhardt's piece serves to contextualize Aune and Edwards' arguments for the continued inclusion of the "race of color" item on birth certificates and juxtapose their position upon the tangible example provided by the State of New York. These three articles together provide a clear concise statement from the US bureaucracy, that the need for statistical race data, for the good of the people, supersedes any and all concerns of discrimination, which would only occur on an individual basis. While Earnhardt and Edwards engage a compelling defense for the continued necessity of race data on vital statistics, and for the protection of race data by moving it to the confidential section of birth certificates, it would seem that there still remains a perpetual loophole allowing discrimination to permeate the impenetrable barrier of confidentiality. In this case the loophole in New York State would be pursuant to

¹⁰³ Ibid., 668.

State Health Code, which then allows for the release of race data to be used for several scientific purposes.

Aune, Edwards, and Earnhardt make claims that race data is essential for the larger public good, while allowing measures attempting to shield non-whites from discrimination. Yet according to their own conclusions, whites and non-whites differ substantially in areas of family behavior, age at marriage, fertility, degree of family stability, economic situation, and access to prenatal care.¹⁰⁴ Following their logic, when weighing implications of discrimination from racial data against facilitating public health reform for the population as a whole, any risks associated with releasing race information would be justified. Adversely, because these three advocates of public health reform continually account for the disparate life conditions of whites versus non-whites, the "population" who it is intended to benefit from these health reforms would be, primarily, a population made up of non-whites. If the intent of the U. S. Department of Health, as explained by Aune and Edwards, is to improve living conditions for those who need it the most, then non-whites would be their target audience. If non-whites are the target audience for these benefits, should it not be their decision as to whether or not they want their race disclosed on vital statistics documents?

Hawaiian Certificates of Birth

One of the few scholarly articles dealing directly with Hawaiian Certificates of Birth was written by former Registrar of the Territory of Hawai'i, George

¹⁰⁴ Aune, "Implications for the Race-Color Item," 664; Edwards, "Social Implications of the Race-Color," 672; and Erhardt, "Race of Color on Vital Records," 667.

Tokuyama, and former Director of the Territorial Bureau of Vital Statistics, Charles Bennett. Their article, "Vital Records in Hawai'i," provides significant background on the Hawaiian vital statistics system, and some insight into the inner workings of the system as a whole. The team of Bennett and Tokuyama hint to the size and scope of the vital statistics system saying that "although registration has been approximately complete only in recent years, nearly a million records are now on file, some of them dating back over a hundred years."¹⁰⁵ While records from that time period do exist, they appear quite similar to mo'okū'auhau which gives a mother's name, a father's name and then names the child, so while early records do exist they do not include the race information. Bennett and Tokuyama testify as to the limitations of the vital statistics system, as there was an obvious break in the transition from oral record keeping to written record keeping.¹⁰⁶

Bennett and Tokuyama discuss a major change in recording procedures in 1950, when local registrars (most of which happened to be government physicians) handed their jobs off to the Bureau of Health Statistics on O'ahu, cutting down the number of people registering vital statistics from 35 to four.¹⁰⁷ While they seem to be accentuating the change and the increase of effectiveness of the vital statistics system, they are also highlighting the inefficiency of the system prior to this change in 1950. Bennett and Tokuyama do not touch upon the issue of race on birth

¹⁰⁵ Charles Bennett and George Tokuyama, "Vital Records in Hawai'i" in *Hawai'i Medical Journal* vol. 15 no. 2:127-30, 1961, 127.

¹⁰⁶ Ibid.

¹⁰⁷ Ibid.

certificates, rather they seek to provide a cursory understanding of how and why vital statistics are used and recorded.

Certificates of Delayed Birth

Of particular interest, when discussing race recording on vital statistics certificates, is the issuance of Certificates of Delayed Birth in Hawai'i. While these certificates have been issued throughout the US up until 1955, Hawai'i was only one of two places¹⁰⁸ where these delayed certificates had to pass through two different bureaucratic agencies: Bureau of Health Statistics, and the Hawaiian birth certificate section of the office of the Secretary of Hawai'i. Hawai'i law provided for instances when birth data was not recorded at the time of the event, and allowed for the issuance of "Certificates of Delayed Birth" up to one year following date of birth, provided "certain documentary proofs are offered."¹⁰⁹ Further problematizing the use of birth certificates as evidence of race is that, the Territorial government allowed birth certificates to be issued and, in some cases, reissued even after several years passed through the office of the Secretary of Hawai'i. According to Bennett and Tokuyama, most of these latter types of delayed birth certificates were issued to older people "who were born when current birth registration was less nearly complete than today."¹¹⁰

According to the State Department of Health's Public Health Regulations to qualify for a certificate of delayed birth, a child must be one-year or older:

¹⁰⁸ Massachusetts was the other locale.

¹⁰⁹ Bennett, *Vital Records in Hawaii*, 129.

¹¹⁰ *Ibid.*, 129.

whose birth has not previously been registered in this state, or his parent, guardian, next of kin, or older person acting for the registrant and having personal knowledge of the facts of birth may request the registration of a delayed certificate of birth, except that an application will not be accepted for a deceased person.

(2) The application shall be cancelled if it is not completed within one year from the date of application. Upon cancellation the applicant shall be advised of the decision, and all documents submitted in support of such application shall be returned to the applicant.¹¹¹

While a thorough examination of "Certificates of Delayed Birth" would require an entire dissertation, in my cursory search of these certificates by date,¹¹² it became apparent that Bennett and Tokuyama's claims were accurate. Additionally, these certificates were issued not only to "older people," but specifically to Japanese and Chinese immigrants. While it cannot be said for sure, it is quite possible that the large numbers of Japanese and Chinese immigrants obtaining certificates of delayed birth increased the voting population in Hawai'i, which would skew election results. The democratic party in Hawai'i gained favor with both the Japanese and Filipino immigrant populations, causing them to not only vote democratic, but to rise in the party ranks and eventually become prominent politicians themselves.¹¹³ From 1931 - 1944, the percentage of eligible voters from the Japanese immigrant population

¹¹¹ Department of Health, State of Hawai'i, "Delayed Birth Registration," *Public Health Regulations*, 1972.

¹¹² Research on "Certificates of Delayed Birth" was conducted at the Hawai'i State Archives, and at the Church of Jesus Christ of Latter Day Saints, Honolulu Stake, Family History Center, 3 March 2014.

¹¹³ Pei-te Lien, "Participation of Asian Americans in U.S. elections: Comparing Elite and Mass Patterns in Hawai'i and Mainland States," *UCLA Asian Pacific American Law Journal*, vol 8, 2002: 55 - 246, 62.

went from 19% to 50%.¹¹⁴ The Japanese are not the only immigrants who became active in the political scene in Hawai'i, the Chinese and Chinese-Hawaiians were also prominent political figures.¹¹⁵

Because my research did not cover all the delayed certificates available, it would seem plausible to assume there was occasion for any number of ethnic Hawaiians to also be issued this type of certificate, even though I, personally, only came across two of those instances out of the approximately 150 that I reviewed.

Although this thesis is not entirely focused on the impact the immigrant population had on procedures regarding birth certificate issuance, it is vital to contextualize this discussion of the validity of birth certificate race data against the sociopolitical atmosphere preceding, during, and immediately following the HHCA in 1921. In 1910, according to the U. S. Census Bureau, the population of the largest race groups in Hawai'i included the following: 38,547 (26,041 "Hawaiian" and 12,506 "Asiatic-Hawaiian" and "Caucasian-Hawaiian"); 79,674 Japanese; 22,303 Portuguese; and 21,674 Chinese.¹¹⁶ These statistics were then expanded to include the numbers of each of these race groups, except Hawaiian and part-Hawaiian, who

¹¹⁴ Ruth Akamine, "Class, Ethnicity and the Transformation of Hawai'i's Sugar Workers, 1920 - 1946," *The Politics of Immigrant Workers: Labor Activism and Migration in the World Economy since 1830*, 1993: 175.

¹¹⁵ Some Asian American US Congress representatives from Hawai'i: Hiram Fong, first Chinese and Asian American US Senator; Daniel Inouye, first Japanese American to serve in congress; "Spark" Masayuki Matsunaga, replaced Hiram Fong in the US Senate in 1976; Daniel Akaka, Hawaiian-Chinese who filled Matsunaga's Senate seat; Patsy Mink, first woman of color to elected to the House; Patricia "Pat" Saiki, first Republican to represent Hawai'i in the house. Lien, "Participation of Asian Americans," 66 - 70.

¹¹⁶ Thos. G. Thrum, "Hawaiian Almanac and Annual for 1913" in *The Reference Book of Information and Statistics: Relating to the Territory of Hawaii, of value to Merchants, Tourists and Others*, Honolulu: 1912, 27.

were not born in Hawai'i.¹¹⁷ In 1911, Hawai'i exported \$40.3 million worth of goods, \$36.7 million or 91.1%, from sugar (\$35.6 brown sugar, and \$1.1 refined sugar),¹¹⁸ evidencing the plantations' continued monopoly of economic industry in Hawai'i in the 1900s. This sugar-heavy economic climate was dependent upon its immigrant workforce and had vested interests in maintaining control over their manpower.

It should come as no surprise then that changes in the policy of issuing birth certificates, at least in Hawai'i, seemed to focus on the certifying or *decertifying* citizenship of those same immigrant plantation workers within the Territory. In 1911, Ernest Augustus Mott-Smith, in his capacity as the Secretary of the Territory and member of the Territorial Board of Health, issued "Regulations Governing the Issuance of Hawaiian Birth Certificates." These new governing rules detailed the process for the issuance of Hawaiian Certificates of Birth henceforth from 1911. New regulations required that applicants, adult or minor, provide: facts pertaining to the applicant's birth, and sworn affidavits of at least two witnesses "cognizant to the fact of Hawaiian birth," family and life history; two self photographs printed on silver, or some other "durable" paper; and a five-dollar "deposit," which was refundable in the case of denial of certification. From these requirements, the Secretary of the Territory would hold a formal investigation to hear witnesses and review evidence, after which he/she would make a decision to either grant or deny a "Certificate of Hawaiian Birth" which made the applicant a citizen of the United States of America.

¹¹⁷ Ibid.

¹¹⁸ Ibid., 29.

"Certificates of Hawaiian Birth" are the first paper form government-issued birth certificates in Hawai'i and are crucial to the DHHL certification process. Through the HHCA, a "native Hawaiian" is defined as "any descendant of not less than one-half part of the blood of the races inhabiting the Hawaiian Islands previous to 1778," and while the stipulations of blood quantum do not require that genealogy be traced to 1778, it does require that individuals trace their genealogy back to a *documented* ancestor, whose existence would confirm the individual's blood quantum by tracing fractional amounts of blood according to their genealogical line.

The numerous incantations of the birth certificate and the mechanics involved in its creation and usage leave gaping holes with regards to continuity and reliability of information. The differences in the "race" and "ethnicity" item throughout the history of birth records particularly in Hawai'i should invalidate their legal usage as documents proving racial or ethnic identity, as Yanow has shown that self-identification on racial documents is inconsistent and unreliable. Blatant inconsistencies plague the original issuance, reissuance, and resulting digitizing of birth records in Hawai'i, only strengthening this argument against birth certificates as legal documents of race. While the idea of a blood quantum requirement has been argued over and over again, its existence remains, begging an examination into its actual practice within the governing authority. While the HHCA dictates a blood quantum requirement, the DHHL currently lacks a mechanism capable of unequivocally confirming or denying a quantum of blood for k̄anaka. If DHHL continues to employ birth certificates as the primary document used for proving blood quantum and qualification of land rights established under the HHCA,

the theoretical debates surrounding blood quantum cease to be relevant. All that remains of blood quantum, at least in the Hawaiian case, is a theory supported by flawed "evidence" which is reviewed by an entity (DHHL), which aims to benefit only a fraction of the k̄naka population.

Conclusion

Birth Certificates are useful tools for demographers and scientists in general, as they have been designed to track standardized information. Information that is vital in designing public policy, through time, which creates programs to benefit certain populations. Alternately, birth certificates seek to provide concrete information to public policy advocates, but the inclusion of race/ethnicity as a category for self-identification is anything but finite. While social scientists, Aune, Edwards, and Erhardt have argued for the importance of race or ethnicity on birth certificates, Yanow and Saperstein problematize the inclusion of this same information as it can be used as a tool of discrimination. This chapter has presented a wealth of information on race and ethnicity data used in measures for creating and implementing public policy, but while certain studies would claim to differ, race and ethnicity alone are not accurate measures of socio-economic standing.

CHAPTER 4. AFFIDAVITS OF ANCESTRY

While birth certificates and "Certificates of Hawaiian Birth" are the "primary documents" used by DHHL, some "supporting" documents are also utilized in certifying Hawaiian blood quantum.¹¹⁹ It should be noted here, however, that DHHL emphasizes that "these primary documents (birth certificates and "Certificates of Hawaiian Birth") must be exhausted before secondary documents will be accepted."¹²⁰ While the previous chapter of this thesis dealt with only one such document (in its many forms), the birth certificate, this section will briefly deal with secondary and tertiary methods of determining Hawaiian blood quantum. In regards to the use of "secondary documents," DHHL says:

Secondary documents may be accepted in lieu of primary documents where birth certificates for the applicant, applicant's parents, or grandparents are not available and Department of Health "No-record" certifications have been issued for those searches. The following is a list of secondary documents arranged in order of priority:

- (1) Marriage Certificates (If not available, obtain "No-record" certification from the Department of Health);
- (2) Death Certificates (If not available, obtain "No-record" certification from the Department of Health); and
- (3) Other documents such as:
 - Records from the State of Hawaii Archives, state court, public libraries, or census records;
 - Official baptism records or other church records that show applicant's or an applicant's ancestor's race;
 - Official records from the files of military services, schools, or hospitals;
 - Employment records;
 - Physician or mortuary written statement;

¹¹⁹ State of Hawai'i, Department of Hawaiian Home Lands, "Instructions for Applying for Homestead Lease," 2011, 2.

¹²⁰ Ibid.

- Obituaries and vital statistics news clippings; and
- Affidavits or sworn notarized statements from knowledgeable persons to substantiate ancestry claims (primarily from parents, grandparents, etc.).¹²¹

Not unlike the previous discourse on birth certificate data unreliability, an in-depth investigation into each subcategory of secondary race documents will result in similar questions of validity. This section of the thesis will examine "secondary documentation" as a sort-of umbrella category of both privately *and* bureaucratically kept documents, focusing much of its efforts scrutinizing "Affidavits of Ancestry." This chapter will problematize the use of Affidavits of Ancestry as proof of Hawaiian blood quantum, and will discuss the complications of being re-certified by both primary and secondary ancestry verification documents. This chapter will also briefly examine how native peoples in Aotearoa and in the continental US quantify blood and certify members for their tribes, en route to a discussion of possible improvements that can be made in the Hawaiian case.

A discussion on the usage of Affidavits of Ancestry to determine eligibility for state sponsored entitlements demands an exploration into the attitudes of the k̄anaka towards one another. Hawaiian historian Jonathan Kamakawiwo'ole Osorio maintains that "questions of blood quantum (how much Hawaiian) may be raised between Hawaiians, but usually from curiosity, and in polite conversation, not as an issue with political implications" and counters that statement by saying that "fairly strong institutional and political interest in Hawaiian blood quantum, which makes

¹²¹ Ibid., 3.

the question less innocent."¹²² Osorio tackles the social stigma accompanying blood quantum and says that on a certain level, Hawaiians are purely curious creatures. Whether or not Hawaiians are making blood quantum inquiries innocently, the issue of blood quantum arises often within the social context, at least for me. It is impossible to engage discourse on Hawaiian blood quantum without referencing the HHCA, the policy that created the 50% blood quantum requirement.

Osorio implies that the "institutional and political interest," which creates and sustains blood quantum, are catalysts for an emerging competitive attitude amongst Hawaiians of varying blood quantum.¹²³ Division amongst the Hawaiian community is inescapable because it is a State law that recognizes only half-blooded Hawaiians as eligible to receive benefits from the DHHL, as if half-blooded Hawaiians are the only ones whose ancestors needed "rehabilitation." Conversely, the HHCA affirms the fact that the more Hawaiian blood one has, the more likely rehabilitation will be needed. During the HHCA hearings in 1920, the concept of who was really k anaka was debated at length with statistics being offered to prove that full-blooded Hawaiians and part-Hawaiians were *racially different*.¹²⁴ If the guise behind the HHCA was to "rehabilitate"¹²⁵ the Hawaiian people, how does blood quantum affect their ability or inability to be successful citizens?

¹²² Jonathan Kamakawiwo'ole Osorio, "'What Kine Hawaiian Are You?' A Mo'olelo about Nationhood, Race, History and the Contemporary Sovereignty Movement in Hawai'i," in *The Contemporary Pacific*, vol. 13 no. 2, Fall 2001, 359 - 379.

¹²³ Ibid.

¹²⁴ Kauanui, *Hawaiian Blood*, 124-6.

¹²⁵ The HHCA principle purposes are: (1) Establishing a permanent land base for the benefit and use of native Hawaiians, upon which they may live, farm, ranch,

Imagining the natives

This discussion on Affidavits of Ancestry is completely dependent upon delineating two separate and distinct nationalist identities amongst the k naka. If, according to Benedict Anderson, a nation is an "imagined political community" and is "distinguished, not by their falsity/genuineness, but by the *style in which they are imagined*," then the entire population of the Hawaiian people is subdivided into smaller communities because of the HHCA.¹²⁶ While it can be argued that there exists more than two "imagined" populations amongst Hawaiians, it is these two distinct communities which are the most easily delineated because of their finite membership. It may seem a touch far-reaching to consider native Hawaiians and part-Hawaiians as an example of Anderson's "imagined communities" because they do not satisfy the requirement of being willing to die for their communities, but as mini-nations there is a "deep horizontal comradeship" which binds the State recognized native Hawaiians separately from all other Hawaiians.¹²⁷

and otherwise engage in commercial or industrial or any other activities as authorized in this Act; (2) Placing native Hawaiians on the lands set aside under this Act in a prompt and efficient manner and assuring long-term tenancy to beneficiaries of this Act and their successors; (3) Preventing alienation of the fee title to the lands set aside under this Act so that these lands will always be held in trust for continued use by native Hawaiians in perpetuity; (4) Providing adequate amounts of water and supporting infrastructure, so that homestead lands will always be usable and accessible; and (5) Providing financial support and technical assistance to native Hawaiian beneficiaries of this Act so that by pursuing strategies to enhance economic self-sufficiency and promote community-based development, the traditions, culture and quality of life of native Hawaiians shall be forever self-sustaining. Hawaiian Homes Commission Act of 1920   101, State of Hawai'i (1921).

¹²⁶ Benedict Anderson, *Imagined Communities*, London and New York: Verso, 2006, 7.

¹²⁷ . Ibid.

The "imagined" separation of the part-Hawaiian population and the native Hawaiian population, while sustained willfully by the citizens of each respective group, was born out of a congressional bill which was initially intended to benefit all k̄naka, regardless of blood quantum. Tangible public policy (the HHCA) remains in place to keep these communities separate. Seeing that only the native Hawaiian community is eligible for entitlements from the DHHL, its membership is exclusive and the process to be accepted is arduous. Membership to an eventually possible Native Hawaiian "nation" becomes increasingly convoluted when Affidavits of Ancestry become a method for proving blood quantum. There is no accounting for human error or for purposeful deceit within the recording of these Affidavits of Ancestry and because of the entitlements at stake, there is every reason for people to bend the truth or even blatantly lie. K̄naka call this type attachment (for purely personal gain) ho'opilimea'ai, literally meaning to attach ones self to food. The term ho'opilimea'ai is applied to people who align themselves with others for their personal benefit.

Upon initial examination, Affidavits of Ancestry could be a step in the right direction as their use moves closer to the Hawaiian concept of mo'okū'auhau engaging a family expert to relay information about a family member's birth and their ancestors. Comparing Affidavits of Ancestry to mo'okū'auhau is problematic, particularly in the case of DHHL, since Affidavits of Ancestry are being utilized to prove blood quantum and mo'okū'auhau was a function used to trace the mana of chiefs by connecting them to their highest-ranking ancestors. These two

instruments are similar in that they rely on human memory for validation, and they are also subject to being devalued because they are not official State documents.

On the list of acceptable documents from the DHHL, Affidavits of Ancestry are the last, giving them the least leverage of all other records. This prioritization of documents in this manner proves problematic, particularly in cases where errors exist on birth certificates. As was previously discussed in chapter 3, birth certificates as proof of race have a varying degree of reliability, becoming even less dependable amongst populations who were victims of racism by the larger hegemony. During the early 20th century, Eugenics was a hugely popular topic in scholarly work in Hawai'i promoting ways in which to produce the best race possible by choosing spouses in a particular manner.¹²⁸ The eugenics movement in Hawai'i strengthened and helped define the concept of a blood quantum requirement for native entitlements.¹²⁹ The eugenics movement, which gains momentum during the 1920s, offers insight into possible reasons why Hawaiians may or may not have self-identified their children as Hawaiian on their birth certificates, and in the cases where the recorded information is inaccurate, the Affidavit of Ancestry could potentially correct those mistakes.¹³⁰

While Affidavits of Ancestry are the lowest priority in regards to blood quantum verification, they can be helpful in cases where there are no vital statistics certificates available, or there are errors on the available records. As they can be

¹²⁸ Maile Renee Arvin, "Pacificaly Possessed: Scientific Production and Native Hawaiian Critique of the "Almost White" Polynesia Race," (PhD diss., University of California San Diego, 2013), 41.

¹²⁹ Ibid.

¹³⁰ Ibid.

helpful at times, there is also occasion for Affidavits of Ancestry to work against the Hawaiian Home Lands applicant. There is an opportunity for the same "knowledgeable person(s)" to write in support of claims for native Hawaiian certification, and there also exists circumstances in which those same people will write in opposition of such claims. One could potentially be denied certification as a native Hawaiian because a family member has provided information that suggests a blood quantum of less than 50%.

The Expert

Because of the nature of dealing with vital certificate statistics, employment and church records, and personal affidavits, it is necessary for the DHHL to employ an expert to be make decisions whenever there are questions surrounding a person's status as a beneficiary. The DHHL, under its Application Services Branch, employs a "Hawaiian Home Lands Genealogist" whose job is "performing specialized work in reviewing documents provided by applicants to determine if they meet age and blood quantum requirements for difficult native Hawaiian Qualification (NHQ) cases and for proposing organizational changes to the current applications process and system."¹³¹ This staff genealogist exercises a degree of autonomy in determining a person's membership in the exclusive group of native Hawaiian beneficiaries. It would seem that this position would be occupied by a kūpuna (elder) who is familiar with both bureaucratic record keeping and with a degree of cultural expertise in the art of mo'okū'auhau. The actual "minimum

¹³¹ State of Hawai'i DHHL, "Vacancy Announcement (VA~E #13-007)," October 21, 2013.

qualifications" for the position of Hawaiian Home Lands Genealogist requires: two years of experience in general office related tasks; two years of dealing with people and creating new relationships; three years of experience in DHHL operations, with an emphasis on Applications Services Branch tasks; supervisory potential; and a bachelor's degree from an accredited four year university.¹³²

The minimum qualifications for this expert position are relatively standard in regards to years of experience and depth of knowledge, but I find difficulty that the job description does not require a working knowledge of Hawaiian history or culture, and there is no mention of any Hawaiian language proficiency requirement. Many Hawaiian historical documents (including early recordings of birth and marriage), and personal journals and letters are written completely in Hawaiian. It is important for a genealogist to have a complete understanding of all available material to consider, rather than just the material that is available in English. DHHL recognizes the need for an "authority" to make decisions on individual cases where blood quantum is unclear, but I question the minimum qualifications set forth by the department. How can one make an accurate decision without a modicum of historical and cultural knowledge, when lacking familiarity with the Hawaiian language? If Hawaiian source material is available and contains pertinent genealogical and historical information, why not capitalize on it?

Re-certification

Initial certification as a native Hawaiian is not an easy milestone to achieve, especially if a family's vital statistics certificates contain discrepancies. The DHHL,

¹³² Ibid.

for that exact reason, employs a staff genealogist whose job is to make decisions on blood quantum for the most difficult cases. If an applicant is lucky enough to have all his/her paperwork in order along with the accompanying birth certificates, they will get the stamp of approval from the DHHL and will be placed on the Applicant Waiting List. As of June 30, 2013, the DHHL had 26,926 applicants on the State-wide waiting list.¹³³

For the 26,926 official beneficiaries of the Department Hawaiian Home Lands, all there is left to do is wait. Once a lot becomes available for lease, or an entire subdivision which occurred in Kapolei in 2009, DHHL begins notifying beneficiaries according to their date of application and designated location. Provided that all goes well with the financing of the home lot, the beneficiary then becomes a lessee of the DHHL, paying their own home mortgage and a lease fee of \$1 per year (for 99 years, which is renewable for a second term of 99 years) for the land on which their home is built. It would be fitting to end this thesis with this story of success, but the DHHL process does not end here. Any time there is a change in the lease, a lessee dies and wills the home to a child, or the lessee sells the home (and transfers the lease) to another beneficiary, blood quantum must be recertified. Also, if a family member (or other knowledgeable person) presents information by birth certificate or Affidavit of Ancestry which challenges a beneficiary's status, it is possible that he/she can be de-certified and removed from the waiting list or even *removed from his/her home* if he/she has already been awarded a lease.

¹³³ State of Hawai'i DHHL website, <http://dhhl.hawaii.gov/applications/application-wait-list/> (accessed 9/1/2014).

This subject of re-certification should be highly debated and extremely controversial as it allows the DHHL to certify applicants as "native Hawaiian," and later strip them of their "native Hawaiian" status. This policy's mere existence illustrates that there are major loopholes in the DHHL's process of authenticating blood quantum, loopholes which necessitate this "re-certification" policy allowing DHHL to fix its mistakes. The DHHL has been forthcoming, disclosing the fact that determining blood quantum is not an exact science and that it is very possible for mistakes to be made, but this re-certification seems to be completely superfluous. If a family is granted access to a lease based on the best ancestral information available at the time, then how can they later be punished because of a piece of information submitted by another family member? Given all information discussed in this thesis, if the process by which blood quantum is determined by DHHL is dubious, then it is time to reexamine the ways in which public policy has defined and confined the kānaka people into two boxes: native Hawaiian or part-Hawaiian.

Tribal Constitutionalism

The public policy interpretation of an eligible kānaka, 50% or more blood quantum, has fractured a single race (at least legally) since 1921, but what would happen if kānaka were organized into tribes like that of the Native Americans, First Nations, or Māori? The practice of tribal constitutionalism, in the context of tribal membership, presents an interesting opportunity for Native peoples to launch a self-created category of citizens who would become tribal members. Melbourne Law School Senior Lecturer Kristy Gover differentiates between the two categories of indigenusness saying that they create a "jurisdictional split between two legally

defined populations: indigenous persons, identified by the settler governments, and tribal members, identified by recognized tribes."¹³⁴

Hawai'i does not have the same relationship to its colonizing super power as the Native Americans have with the US, the First Nations have with Canada, or the Māori have with the United Kingdom: namely, a formal agreement or treaty, which recognizes tribes individually and as distinct entities each with its own presiding government, which then facilitates the relationship with the colonizing nation. In the US, the Department of the Interior's Bureau of Indian Affairs (BIA) is the national agency that manages the trust lands for the 566 *recognized* American Indian tribes and Alaska Natives, each with the option to maintain and register their own tribal membership according to their established standards.¹³⁵ While each of these nations has the option to qualify their own members, each process has its own merits and challenges.

In her article, Gover compares more than 700 tribes in the US, Canada, and New Zealand with varying tribal membership requirements, detailing the differences in membership acceptance policies. An overwhelming majority of Indian tribes in the US, approximately 70%, use blood quantum as a determinant for tribal membership, and Gover asserts that tribes implementing their own blood quantum requirement have done so because of the "long-standing history of its measurement

¹³⁴ Kristy Gover, "Comparative Tribal Constitutionalism: Membership Governance in Australia, Canada, New Zealand, and the United States" in *Law and Social Inquiry*, vol. 35 no. 3, Summer 2010, p 689 - 762, 691.

¹³⁵ *Ibid.*

by the federal government in legislation and regulations identifying Indians."¹³⁶

Gover continues claiming that blood quantum, as an administrative instrument, is well-known and understood making it an easy choice to be adjusted and applied for use by Indian tribes.

While tribal constitutionalism appears to be necessary for Hawai'i in order to achieve a degree of self-determination, the history of the American Indians who are knee-deep in tribal constitutionalism offers some valuable insight into possible complications particular to tribal membership, arising from creating a separate government for Hawaiians. Although tribal constitutionalism would transfer governing authority and the ability to create membership requirements to a council of people elected by the Hawaiian people, who would determine who could vote to elect the new leaders of the Hawaiian tribe? If tribal constitutionalism is a means to liberate the k̄naka from the US, how is it conducive to create an independent government under the direction of the government from which those same individuals are attempting to gain independence from? If, according to Gover, blood quantum is an administrative instrument, which lends itself to being easily adapted for use by individual tribes, the legacy of this colonialist policy will persevere through changing regimes. If the Hawaiian people eventually adopted tribal constitutionalism, by way of federal recognition, who would count as a Hawaiian?

Hope for the Future

Tahu Kukutai, Senior Research Fellow at the University of Waikato in Hamilton, New Zealand, offers a unique approach to determine (1) who is Māori for

¹³⁶ Ibid., 701.

Public Policy purposes, and (2) which of those Māori should benefit from the directed policies and programs.¹³⁷ Kukutai suggests that the "statistical and legal definitions of Māori. . .take account of both self-identified ethnicity and descent" and, secondly, "that programmes which seek to militate Māori disadvantage be oriented towards those who strongly identify as Māori, since they are the most likely to be in need."¹³⁸ The recipe for change that Kukutai provides, a recipe that could be easily adapted for use with kākā, provides a framework that alters our conception of race, color, and ethnicity, by accounting for racial self-identification, lineal descent¹³⁹, socio-cultural affiliations, and socio-economic standing, in the determination of, firstly, who is Māori, and secondly, who should benefit from programs designed to support Māori.¹⁴⁰

Kukutai believes that the dilemma of deciding who is Māori is compounded by the lack of a standardized criteria, but acknowledges the necessity of creating a criteria for the purposes of public policy making.¹⁴¹ Kukutai takes the process of determining blood quantum and identifying intended beneficiaries, and examines them together acknowledging their co-dependent relationship.¹⁴² Without deconstructing Kukutai's processes, her epistemology re-writes what it means to be Māori across a spectrum of determinants, essentially evolving Māori identity and

¹³⁷ Tahu Kukutai, "The Problem of Defining an Ethnic Group for Public Policy: Who is Māori and Why Does it Matter?" in *Social Policy Journal of New Zealand* no. 23, December 2004, 86-108, 86.

¹³⁸ Ibid.

¹³⁹ Recognizes blood relatives who are direct descendants of an individual i.e., child, grandchild, great-grandchild.

¹⁴⁰ Kukutai, "Public Policy," 89.

¹⁴¹ Ibid.

¹⁴² Ibid., 95.

making it increasingly inclusive of people who self-identify as Māori, and allowing for lineal descended Māori who may not necessarily feel strong cultural ties to their tribe.¹⁴³

Kukutai's recommendations for the adaptation of the definition of Māori are comparable to the creation of the "native Hawaiian," by way of the HHCA, in that they both: (1) are intricately tied to the creation of public policy targeted at specific indigenous peoples; (2) seek to define a group of people to create a base population who are eligible for entitlements conceived by that public policy; (3) seek to create public policy which effects positive change in the lives of the most needy of their indigenous population. Kukutai's plan has potentially long-reaching effects for the status of "native Hawaiians" as a separate race. According to her, "persons of Māori descent who do not identify as Māori should not be counted as Māori for most general policy and legal purposes," because they are "New Zealanders of Māori ancestry," a divergent group of people than those who self-identify as "culturally Māori."¹⁴⁴ This provocative claim could potentially decrease the number of legally recognized "native Hawaiians," by eliminating any voting rights (by their own choice) for laws or people which would affect public policies for Hawaiians.

Kukutai is adamant that those who identify as culturally Māori, but who have no Māori ancestor should not be included in the definition of Māori, because they have no descent which connects them to the Māori *whakapapa*, or genealogy.¹⁴⁵ This group of people who identify culturally as Māori, but who have no genealogy to

¹⁴³ Ibid.

¹⁴⁴ Ibid., 101.

¹⁴⁵ Ibid.

claim Māori ancestry, can be compared to a local population of non-Hawaiians in Hawai'i who use the term "Hawaiian-at-heart." The "Hawaiians-at-heart" are people, both inside and outside of the State of Hawai'i, who have a degree of cultural knowledge or appreciation which they believe makes them Hawaiian.¹⁴⁶ At times, these same "Hawaiians-at-heart" increase their claim by being more Hawaiian than the "real" Hawaiians because they have a wealth of knowledge in the Hawaiian language, particular Hawaiian tradition or cultural practice.¹⁴⁷ As it is with the Māori, lineal descent should be the foundation of determining who is Hawaiian. Kukutai presents New Zealand as a possible model for the defining of indigenous peoples because it insists that Māori be at the helm of institutional changes to decide what it is to be Māori.¹⁴⁸ In the end, "only Māori know best, who or what they are."¹⁴⁹

In order to allow for applicants without valid vital statistics certificates, the DHHL has created the category of "secondary documents" which are sufficient in certifying blood quantum, or as a supplement to incomplete vital statistics records. Most controversial of these "secondary documents" is the Affidavit of Ancestry, which is a personal statement from a "knowledgeable person" who can confirm an applicant's genealogy. While the Affidavit of Ancestry can be helpful, there is no way to discern whether or not the individual providing the statement has sufficient knowledge to make claims for another's genealogy. When all else fails, the DHHL employs an expert genealogist to make specific decisions on problematic

¹⁴⁶ Lisa Kahaleole Hall, "'Hawaiian at Heart' and Other Fictions" in *The Contemporary Pacific*, vol. 17 no. 2, Fall 2005, p. 404-13.

¹⁴⁷ Ibid.

¹⁴⁸ Kukutai, "Public Policy," 103.

¹⁴⁹ Ibid.

blood quantum cases, but is this expert qualified for the position? At the very least, an individual occupying this post should have a working knowledge of Hawaiian history, cultural traditions, and language, *in addition* to being an expert on vital statistics records and the DHHL blood quantum certification process.

If the HHCA has determined that "native Hawaiians" are the most needy of all Hawaiians, then it would seem prudent that this blood criterion continue across all entitlements where race is the basis for qualification. A case has been made in this thesis that, the correlation of poverty to race is not definitive and the demographic statistics used to illustrate this correlation are problematic because of the standardizing of the race/ethnicity category on vital statistics records. The notion of tribal constitutionalism is novel as it would give Hawai'i the ability to determine for itself, who is Hawaiian? While tribal constitutionalism does give Hawaiians some leeway in determining their own baseline for tribal membership, it is proven, at least in the case of several Native American tribes, that the creation of new public policy exclusive to singular tribes will always retain a degree of interference from the colonizing power. While tribal constitutionalism does not clearly translate in the Hawaiian context, but if *kānaka* were to be considered a single "tribe" then a loose comparison between Native Americans and Hawaiians can prove helpful, at least in terms of discussions of possible federal recognition scenarios.

The Māori offer an interesting case study on which to base a plan for changing the way Hawaiians are being "certified" as "native Hawaiians." By engaging *kūpuna* experts in genealogy from every tribe to admit members, the Māori are using their own cultural perceptions to define themselves. Kukutai's two-

pronged approach to identifying Māori, by lineal descent and by degree of attachment to the Māori as a people and culture, is appropriate when creating a bureaucratically sanctioned method of categorizing Native people. If an individual is of Hawaiian descent, but has no ties to the community or Hawaiian culture and does not self-identify as Hawaiian, then that individual should have the prerogative to disassociate as they feel fit. According to Kukutai's model, for the purposes of creating a body of "beneficiaries" for public programs created for all kānaka, individuals should also be evaluated on the basis of economic need, as it is not universally true that the more Hawaiian one is, the more "in need" one is, or the stronger a connection to the Hawaiian culture and community, the more disadvantaged one is.

Act 195

This thesis has shown that the use of vital statistics records, i.e. birth, death and marriage certificates, as proof of race and ethnicity is not a practice that can accurately prove "how much Hawaiian" an individual is. It has been argued that the information provided on these certificates presents unique complications when these certificates are believed to be legally factual. In attempting to create demographically useful statistics from these records, the state and federal governments narrowed and standardized each of the categories, but the attempt to standardize records created confusion for individuals whose race or ethnicity did not neatly fit into any particular category. Hawaiians run into major challenges when these vital statistics records, records which were never intended to be used as proof of race, become the documents that completely define them legally.

Vital statistics records are problematic not merely because of the construction of the form, but because, at least in the case of race and ethnicity, the information provided is based on an individual's self-identification as a part of a race or ethnic group. As discussed earlier, the accuracy of vital statistics records is heavily relying on the education level of the individuals providing information and whether they have the ability to decipher what is meant when filling in the space for "race" or "ethnicity." In addition, individuals have the prerogative to refuse to fill out vital statistics certificates, sometimes, as a form of protest. In the case of birth and death certificates, race and ethnicity data is dependent upon the self-identification of the individual's family. Solidifying race and ethnicity in birth certificates only accounts for the association of the family at the time when the event occurs. Ethnicity is a socially constructed concept which can change over time and can change from generation to generation. Race and ethnicity information can be particularly suspect in cases where the father of an individual is unknown or is unidentified on the birth certificate, possibly causing the mother to omit race and ethnicity information for the child's biological father.

Further problematizing vital statistics records as proof of race for Hawaiians is that the notion of race and ethnicity, and kinship ideas, differ dramatically from that of the US, the creator of this record system. Kānaka ideas of kinship, even today, differ immensely from the idea of the nuclear family, as kānaka have specific terms for mother that carry through to all females in the family of the mother's generation. For kānaka, extended family and friends are treated as the nuclear family unit and that closeness informs their view of their relationship with their community. While

it is difficult to measure the effect a k̄anaka notion of kinship on the information provided on vital statistics records, it remains that Hawaiian ideas of kinship affect the ways in which some Hawaiians view the concept of family and parentage.

"Affidavits of Ancestry" are meant to assist the DHHL in determining blood quantum in cases where vital statistics certificates are unavailable or are incomplete. These statements from "knowledgable persons" give the DHHL a clearer picture of an individuals genealogy in order to fill in the gaps in the primary documents provided. "Affidavits of Ancestry" along with the supplemental secondary documentation, i.e. employment, church, and military records, exist because of an assumption that vital statistics records are beyond reproach. While "Affidavits of Ancestry" are able to provide information relevant to blood quantum certification, they are only valid after all other primary and secondary documents are exhausted.

Precisely because of the myriad of documents used by DHHL for blood quantum certification, there is a need for an authority to make decisions on difficult certification cases. For these cases, the DHHL employs a staff genealogist to assist in the application process and to make determinations where blood quantum is unclear. It is obvious that the DHHL recognizes that satisfying a fifty-percent blood quantum requires a full-time genealogist position *because* the certification is not an exact science. The minimum qualifications for this position necessitate a familiarity with both DHHL's methods and experience with vital statistics records, but does not require a working knowledge of Hawaiian history or culture, or a degree of

proficiency in the Hawaiian language. How can this individual make informed decisions on certification without also acknowledging Hawaiian language sources?

The DHHL method of measuring blood quantum and certifying beneficiaries of the HHCA is fundamentally flawed, as it relies on questionable vital statistics certificates and "Affidavits of Ancestry" to make its determinations. Is there a way to accurately ascertain the degree of either ancestry, ethnicity, or racial make-up in blood? Short of DNA and blood tests, I do not think so. A blood quantum criterion has detrimental effects on native populations, essentially creating two separate race-ethnicities: fully legal native Hawaiians and everyone else. While it can be argued that Hawaiians that do not qualify as native Hawaiians are still recognized by the Office of Hawaiian Affairs for other public policy programs, i.e. scholarships and various loan programs, their exclusion from the HHCA highlights the question of "who is Hawaiian enough?"

For the k̄naka, the subject of this thesis is only the beginning. The introduction of Bill 195 created the "Hawaiian Roll Commission" (HRC) in order to organize a population of registered Hawaiians who will become the voting body in an election to establish a government specifically for Hawaiians. The HRC created "Kana'iolowalu" (the Hawaiian Roll) and began soliciting registrants to apply and submit supporting documents to verify Hawaiian ancestry. To register for Kana'iolowalu, the Native Hawaiian Roll, applicants must make three declarations:

- (1) I affirm the unrelinquished sovereignty of the Native Hawaiian people, and my intent to participate in the process of self-governance.
- (2) I have a significant cultural, social or civic connection to the Native Hawaiian Community.
- (3) I am a Native Hawaiian: a lineal descendant of the people who lived and

exercised sovereignty in the Hawaiian Islands, prior to 1778, or a person who is eligible for the programs of the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that person.¹⁵⁰

I find "declaration three" the most problematic, as it stipulates "a person who is eligible for the programs of the Hawaiian Homes Commission Act" as a definition of "Native Hawaiian"? It seems completely counterproductive to include, in a single declaration, that any k̄anaka is eligible, but also, that 50% or more k̄anaka are also eligible. If the point of the roll commission is to establish an inclusive governing body of Hawaiians, the HHCA's definition of "native Hawaiian" would seem to subvert that purpose, because its inclusion in the bill preserves the separation of the collective along blood quantum lines. It would be a shrewd political move to include the HHCA definition in order to eventually divide the Hawaiian roll along blood quantum lines in order to receive certain "benefits" held for the newly formed, federally recognized, Hawaiian Nation. As Kristy Gover has shown, there is a tendency to revert to easily recognizable concepts, like blood quantum, when creating a definition of "native" for new governing entities, but the concept of blood quantum determining an individual's Hawaiian-ness should be expunged. The creation of the HRC seems to be acutely premature, as the first step in any nation building efforts must address the issue of defining Hawaiians, on Hawaiian terms.

An interesting topic for further research would be to consider the creation of the HRC, and subsequent establishment of the Native Hawaiian Roll, and trace its inception and where its political backing comes from. It would be particularly eye-

¹⁵⁰ "Register Now," kanaiolowalu.org, <https://kanaiolowalu.org/registernow/>, (accessed August 1, 2014).

opening to follow the money trail of Act 195, and examine the supporters of the bill at each level, paying particularly close attention to its support from OHA. OHA, tasked with managing a portion of the ceded lands¹⁵¹ revenue aimed to benefit kānaka, is the agency funding, wrting, and lobbying public policy in both Washington, D.C. and Honolulu, and supporting efforts like Kana'iolowalu but is OHA passing policy that Hawaiians want? For that matter, where did their definition of Hawaiian come from? Whether or not an individual supports federal recognition of Hawaiians as a tribe, our fate must be left in our own hands, and we must make our own decision regarding kānaka status. Hawaiians alone have the right to decide who is Hawaiian.

¹⁵¹ According to the Admission Act of 1959, the Crown and Government lands of the Hawaiian Kingdom were "ceded" to the Republic of Hawai'i, and later to the US. In the Admissions Act of 1959 the "ceded lands" were then transferred to the State of Hawai'i in a trust with five purposes, one of which was to better the condition of native Hawaiians. After OHA was created by the 1978 Constitutional Convention it was awarded a "pro-rata" share of the revenue from the "ceded lands." "Establishment of OHA," Office of Hawaiian Affairs, <http://www.oha.org/about/history>, (accessed November 30, 2014).

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