

PŪPŪKAHI I HOLOMUA: CRITICAL LESSONS OF *SOCIAL HEALING THROUGH JUSTICE* FOR NATIVE HAWAIIANS

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From the violent displacement and genocide of indigenous communities to the enslavement and forced labor of Africans, from the theft of sovereignty of an Island kingdom to the racist imprisonment of citizens based upon fabricated stories of military necessity, American history is rife with examples of atrocious injustice. These injustices often involve complex issues of colonialism, imperialism, racism, capitalism, and rugged individualism. These injustices have left indelible marks of trauma on affected communities, especially in the aftermath of the United States' continued failure to provide true healing.

Over decades and sometimes centuries, many have tried to address these historical injustices through the legal and political systems.¹ In many of these efforts, there has been a mixture of listening to the harmed community, taking responsibility, and providing concrete avenues for the community to not only

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1. See, e.g., *In re African-American Slave Descendants Litig.*, 375 F. Supp. 2d 721, 726, 734, 780-81 (N.D. Ill. 2005) (dismissing lawsuit by African-American descendants of slaves seeking reparations from private corporations); Troy J.H. Andrade & Ryan Hamaguchi, *American Internment*, HAW. BAR J., Mar. 2019 (describing the litigation challenging the incarceration of Japanese-Americans during World War II); S. 675, 112th Cong. (2011) (proposing a path of self-determination for Native Hawaiians because of the loss of sovereignty).

heal emotionally, but economically, physically, and culturally.² However, many of these admirable efforts failed.³

One is undoubtedly left to wonder how, in a country that prides itself on democratic principles of equity, fairness, and justice, can such violence, trauma, and injustice go unaddressed. Are there some historical injustices that are too complex to heal? How does the United States heal when it is embedded with racist ideology and there is a growing refusal to educate about the truth? How do victimized communities heal when American political spaces are so polarized that there is mistrust and deception running rampant? How do we bring people to the table who do not want to be at the table?

These questions are difficult to answer. Until now, there has been no handbook to address healing and reparations from social and historic injustice. In his prescient theoretical masterpiece, *Healing the Persisting Wounds of Historical Injustice*, Professor Eric K. Yamamoto builds upon a career-long compilation of scholarly research and interventions to set forth guiding principles and a framework to help us understand how to answer some of these complex questions and move forward from historical injustices.⁴ Yamamoto has done what many have attempted: he created a theoretical framework—what he calls *social healing through justice*—that is workable *in practice* for critiquing and implementing true healing in communities.⁵

In this essay, I describe Yamamoto's theoretical intervention and then apply the *social healing through justice* framework in the context of one aspect of the Native Hawaiian journey for justice for the illegal overthrow of the Kingdom of Hawai'i, the loss of self-determination, land, culture, and language. Specifically, I offer a critique of the State of Hawai'i's efforts in the late-1970s to reconcile with Native Hawaiians for these historical injustices to highlight the usefulness of *social healing through justice* and to explain how reparative change was possible, but also to demonstrate the fragility of ensuring true healing.

2. See, e.g., Civil Liberties Act of 1988, Pub. L. No. 100-383, 102 Stat. 903 (establishing a restitution program for citizens of Japanese ancestry who were incarcerated during World War II).

3. See, e.g., Vincene Verdun, *If the Shoe Fits, Wear It: An Analysis of Reparations to African Americans*, 67 TUL. L. REV. 597, 600 (1993) (describing the evolution of reparation discussions for the atrocities of slavery). But see Eric K. Yamamoto, *Beyond Redress: Japanese Americans' Unfinished Business*, 7 ASIAN L.J. 131, 133-38 (2000) (describing how Japanese Americans must continue to support reparative initiatives for other marginalized groups).

4. See generally ERIC K. YAMAMOTO, HEALING THE PERSISTING WOUNDS OF HISTORIC INJUSTICE: UNITED STATES, SOUTH KOREA AND THE JEJU 4.3 TRAGEDY (2021).

5. *Id.* at 9.

I. SOCIAL HEALING THROUGH JUSTICE FRAMEWORK

In his new book, Yamamoto offers an analytical toolkit that walks readers through the evolution of the language of reparations and reconciliation to suggest a new *social healing through justice* analytical framework. This approach frames the discussion of reparations and reconciliation away from purely monetary compensation to one of true personal, communal, and systemic healing. Importantly, and as Yamamoto contends, social healing will not be successful unless two important pre-conditions are met: (1) stakeholders must be “desirous of and perceive an interest in peaceable and productive group relations in a reconstructed society”; and (2) social healing must “inform and help catalyze, rather than replace,” justice advocates’ political-legal organizing and grassroots efforts to dismantle oppressive power structures.⁶

Social healing through justice, therefore, aims to mend historic injustice through a holistic approach—one that inevitably is composed of all stakeholders, including the wrongdoer and the marginalized community. This framework provides a multidisciplinary approach drawing upon diverse fields, including law, economics, social psychology, and indigenous conflict resolution. It is a useful blend of simultaneous personal and societal level change that works to ensure multifaceted solutions that infuse emotional and material healing for stakeholders.⁷ As Yamamoto argues, *social healing through justice* connects the “conceptual to the practical” in a way that meaningfully restructures social, economic, and political relationships. This framework ensures a collective sense that justice—not just through words, but through action—has been accomplished.⁸ This multi-faceted social healing framework engages “individuals, communities, justice organizations, educators, students, lawyers, businesses, therapists, clergy, scholars, journalists, policymakers and government officials in a dynamic process of *recognition, responsibility, reconstruction and reparation.*”⁹

These 4Rs serve as the “shorthand for the analytical inquiries generated by a *social healing through justice* framework.”¹⁰ With a goal of humanizing all involved, *recognition* first asks participants to “acknowledge and empathize with the anger, suffering and hopes of those harmed, focusing on ‘victims’ but also with an eye on ‘perpetrators.’”¹¹ It requires an examination

6. *Id.* at 24.

7. *Id.* at 9.

8. *Id.* at 25.

9. *Id.* at 25-26.

10. *Id.* at 72.

11. *Id.* at 74.

of the particulars and context of the injustice to understand the use and misuse of narratives of the past and the current social structures of oppression.

Building upon the first inquiry, *responsibility* then requires participants to assess the dynamics of group power to both acknowledge harms generated by the misuse of power and accept responsibility for repairing the inflicted harm. *Responsibility*, thus, necessitates participation by those directly involved in the abuse, those reaping the benefits of the abuse, and those participating in the polity that causes the harm, particularly those complicit in the abuse of power.¹²

Yamamoto recognizes that in some situations, *recognition* and *responsibility* may be enough for all to acknowledge a particular harm. But for those complex historical injustices that are often constrained by legal and political systems, *reconstruction* and *reparation* are needed. *Reconstruction* moves into the action portion of the framework, acting on the words of the first two inquiries.¹³ It includes concrete actions that “promote individual and community healing by rebuilding relationships and remaking institutions.”¹⁴ These actions include “performative interactions,” like apologies, and the generation of substantive messages to highlight the context and lessons gleaned from that experience.¹⁵ They also include concrete action, such as the construction of physical (and online) spaces to remember and recognize the historic harm. Importantly, *reconstruction* involves “institutional restructuring” to prevent the historic injustice from happening again.¹⁶

The final inquiry of *reparation* is focused on repairing damage to material conditions of group life and on restoring human psyches, “enabling those harmed to live with, but not in, history.”¹⁷ *Reparation* is most often associated with monetary payments to those harms, but also includes a broader concept of economic justice.¹⁸ *Reparation* becomes the transformation necessary to unite communities and allow them to move forward.¹⁹

Taken together, these 4Rs engage diverse stakeholders in a process that leads to true social healing. When employed, the framework identifies gaps and opportunities for building coalitions and movements that lead to

12. *Id.* at 79.

13. *Id.* at 82.

14. *Id.*

15. *Id.* at 82-84.

16. *Id.* at 84.

17. *Id.* at 86.

18. *Id.* at 87.

19. *Id.* at 88.

individual and communal healing.²⁰ It identifies how to prioritize and strategically engage stakeholders, including policymakers and community members. It also contextualizes justice struggles, and humanizes the pain and anger of marginalized communities, and the joy and peace of healing. At its core, the *social healing through justice* framework reflects the Native Hawaiian saying, “pūpūkaahi i holomua,” which translates to, “[u]nited, as in harmonious co-operation [to move] forward.”²¹ Put another way, all stakeholders must come to the metaphorical table and truly unite in order to move toward a more just future for all.

In *Healing the Persisting Wounds of Historic Injustice*, Yamamoto demonstrates the power of the *social healing through justice* framework to assess efforts to address the Jeju 4.3 tragedy.²² But, this workable framework is valuable in other contexts. As described below, legal changes in Hawai‘i in 1978 signified an important inflection point for justice for Native Hawaiians and a significant step toward social healing for American injustice.

II. THE STATE OF HAWAI‘I’S EFFORTS TO HEAL NATIVE HAWAIIAN INJUSTICES

In January 1893, the United States government and military worked in tandem with a small group of white citizens to orchestrate the overthrow of the sovereign Kingdom of Hawai‘i.²³ This illegal overthrow, for which the United States ultimately accepted responsibility a century later,²⁴ solidified American presence in the Pacific, but ripped self-governance and self-determination from Hawai‘i’s indigenous Native Hawaiian community. The new self-declared Provisional Government and then Republic implemented laws and policies that sought to “Americanize” the citizenry to ensure a

20. *Id.* at 90-91.

21. MARY KAWENA PUKUI & SAMUEL H. ELBERT, HAWAIIAN DICTIONARY 357 (rev. ed. 1986).

22. See YAMAMOTO, *supra* note 4, at 195-231 (discussing the need for American involvement in social healing with Jeju community).

23. Troy J.H. Andrade, *Hawai‘i ‘78: Collective Memory and the Untold Legal History of Reparative Action for Kānaka Maoli*, 24 UNIV. PA. J.L. & SOC. CHANGE 85, *passim* (2021) [hereinafter *Hawai‘i ‘78*] (discussing the injustices facing the Native Hawaiian community following the illegal overthrow of the Kingdom of Hawai‘i).

24. Apology Resol., Pub. L. No. 103-150, 107 Stat. 1510 (1993) (apologizing to Native Hawaiians for American involvement in the overthrow of the Kingdom of Hawai‘i and committing the federal government to reconciliation efforts).

political transition of the islands into the hands of the United States.²⁵ Native Hawaiians and other Kingdom citizens fought and succeeded in thwarting attempts to annex Hawai‘i to the United States. Nevertheless, through political sleight of hand, the United States “annexed” Hawai‘i in 1898 and created the Territory of Hawai‘i. Over time, the Hawaiian language disappeared from public spaces. Hawaiian culture was relegated to hula shows and lū‘au that placated the emerging tourism industry. False narratives of Hawai‘i’s past that emphasized a “revolution” away from oppressive monarchical rule, similar to the American fight for independence in 1776, permeated classrooms.²⁶ Economic and political power in the Territory became concentrated in the hands of an oligarchy comprised primarily of white business owners, many of whom participated in and directly benefited from the illegal overthrow.²⁷

After significant grassroots organizing and unionization, the vast majority of the people of Hawai‘i, most of whom were from racially minoritized communities, united politically against the oligarchy and, in 1954, successfully won control of the Territorial legislature. In what many considered an effort to leave the repressive territorial system, the multi-ethnic population fought for and achieved statehood for Hawai‘i. Despite the promises of statehood, Native Hawaiians continued to bear the brunt of colonization. Kingdom lands illegally seized during the overthrow were transferred from the federal government to the State of Hawai‘i.²⁸ The American military leased lands from the State and used those lands as target practice, decimating cultural and religious sites. Lands promised to Hawaiians were distributed at an abysmal pace.²⁹ Water, the source of life and sustenance in Hawai‘i, was commodified by large agribusiness to the detriment of traditional farmers.³⁰ Native Hawaiians had the highest

25. Troy J.H. Andrade, *E Ola Ka ‘Ōlelo Hawai‘i: Protecting the Hawaiian Language and Providing Equality for Kānaka Maoli*, 6 INDIGENOUS PEOPLES’ J. L., CULTURE & RESISTANCE 3, 23-26 (2020).

26. See *Hawai‘i ‘78*, *supra* note 24, at 98.

27. *Id.* at 99.

28. JON M. VAN DYKE, WHO OWNS THE CROWN LANDS OF HAWAI‘I? 257-58 (2008) (noting the Congress transferred about 1.4 million acres of Public Lands (the former Crown and Government lands) to the State of Hawai‘i).

29. See Troy J.H. Andrade, *Belated Justice: The Failures and Promise of the Hawaiian Homes Commission Act*, 46 AM. INDIAN L. REV. 1, 29-53 (2021-2022) (describing the century-long struggle to place “native Hawaiian” beneficiaries on homesteading land set aside by Congress in 1921).

30. See D. Kapua‘ala Sproat, *Wai Through Kānāwai: Water for Hawai‘i’s Streams and Justice for Hawaiian Communities*, 95 MARQ. L. REV. 127, 128, 132-35 (2011).

mortality and incarceration rates and the lowest rates for educational attainment.³¹

Yet, in 1978, something changed. Eighty-five years after the illegal overthrow, the State of Hawai‘i took a significant step in its relationship with the Native Hawaiian community when the multi-ethnic population ratified a constitutional amendment that provided a means for Native Hawaiian self-governance and self-determination.³² The State specifically created the Office of Hawaiian Affairs (OHA), a semi-autonomous agency operated by and for the betterment of Native Hawaiians.³³ The constitutional convention’s delegates envisioned OHA serving as a vehicle for reparative action. But would this entity engender social healing? Yamamoto’s *social healing through justice* framework helps assess the success and failures of this effort.

The state constitutional convention in 1978 began at the pinnacle of a Hawaiian renaissance. In the 1960s and 1970s, and despite the project of Americanization that inculcated the islands, Native Hawaiians began to regain their language, spirituality, and cultural practices.³⁴ Underground knowledge keepers emerged to share their wisdom with a new generation of Native Hawaiians keenly interested in their past. Hawaiian music flourished, and the traditional form of dancing returned to stages. This cultural and spiritual renaissance quickly grew into a political reawakening, where Native Hawaiians and their allies demanded justice for—among other things—the theft of Hawaiian sovereignty and the mismanagement of land and cultural resources.³⁵

The 1978 constitutional convention, dubbed the “People’s Convention” because an active community and media campaign to keep politicians out led to only seven of 102 delegates being politicians, saw many progressive changes to Hawai‘i’s legal and political landscape.³⁶ These changes included several new constitutional provisions enshrining rights and protections for Native Hawaiians.³⁷

31. See *Hawai‘i ‘78*, *supra* note 23, at 127 (“It is my dream and the dream of my people that the Hawaiian today be given the opportunity to provide for betterment of the condition and well-being of these young Hawaiians, to address the contemporary problems which Hawaiians face—of crime, inadequate housing conditions, welfare rolls, education.”).

32. HAW. CONST. art. XII, §§ 5-6.

33. See *Hawai‘i ‘78*, *supra* note 23, at 103-04.

34. *Id.*

35. *Id.* at 103, 106-07.

36. *Id.* at 120.

37. See HAW. CONST. art. XII, §§ 1-7; see also HAW. CONST. art. XV, § 4 (codifying the Hawaiian language as an official language of the State of Hawai‘i).

The convention's delegates, with former janitor Frenchy DeSoto and recent law school graduate John Waihe'e at the leadership helm, helped to provide context to the historical injustices facing the Native Hawaiian community. Delegates outlined the decades of injustices against the Hawaiian community and challenged what Yamamoto calls the "stock story" of Hawaiian history to create a new collective memory of the historical injustices.³⁸ DeSoto, the chair of the convention's Hawaiian Affairs Committee, connected the historical injustices with the contemporary statistics of the socio-economic condition of Native Hawaiians when arguing in support of the reparative measures for Hawaiians contained in the Committee's Proposal:

Many, many injustices have been documented in our history. All these injustices have caused us now to stand in public and bare our souls once more, bare our souls so that someone, someplace will begin to listen. Mr. Chairman, fellow delegates, if there must be a statement of need before [the Committee Proposal] is accepted or adopted by this Convention, then surely the following statistics indicate it: according to the 1975 census updates, the present Hawaiian population is a young one; there are roughly 60,000 Hawaiians, or approximately 54 percent of the total Hawaiian population, who are under the age of 20. It is my dream and the dream of my people that the Hawaiian today be given the opportunity to provide for betterment of the condition and well-being of these young Hawaiians, to address the contemporary problems which Hawaiians face—of crime, inadequate housing conditions, welfare rolls, education. [The Committee Proposal] . . . attempts to build the steps for native Hawaiian people so that they may realize . . . self-determination.³⁹

Imploring Yamamoto's first inquiry of *recognition*, Delegate DeSoto and the delegates of the convention focused "on identifying the justice grievance—that is, the larger framing and the details of the historical injustice as well as the present-day claims for rectification."⁴⁰ DeSoto's leadership ushered in a new dynamic between those in power and the marginalized Hawaiian community.⁴¹

The convention delegates ultimately approved a proposed constitutional amendment creating OHA. The next step was a ratification process with the

38. See YAMAMOTO, *supra* note 4, at 78 (arguing that *recognition* also involves the critical interrogation of stock stories and the injustice they ostensibly legitimate); see also *Hawai'i '78*, *supra* note 23, at 90-96 (describing the origins and value of understanding and using collective memory—the knowledge about the past that is shared, mutually acknowledged, and reinforced).

39. 2 STATE OF HAW., PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF 1978, at 458 (1980) (statement of Del. Adelaide DeSoto).

40. See YAMAMOTO, *supra* note 4, at 75.

41. *Id.*

multi-ethnic population in Hawai‘i. Demographically, Native Hawaiians were a minority population in Hawai‘i, and therefore, there would need to be significant support from non-Native Hawaiians to ensure passage of this reparative measure. But the media closely covered the work of the convention and kept the public abreast of the debated measures.⁴² Thus, while the proposed amendments passed by a slim margin, the multi-ethnic voters of Hawai‘i ratified the creation of OHA, thereby acknowledging the suffering of Native Hawaiians and participating in repairing the damage—even if that damage occurred eighty-five years prior. This public approval recognized that despite their lack of involvement or complicity in the illegal overthrow and the benefits that flowed therefrom, people valued empowering Native Hawaiians.⁴³ As such, the second inquiry of *responsibility* was satisfied.⁴⁴

The creation of this semi-autonomous entity through the state constitution, the highest form of law in Hawai‘i, restructured power and the relationship between Native Hawaiians and the State of Hawai‘i.⁴⁵ For the first time in eight decades, Native Hawaiians would be able to elect their own representatives to receive and allocate funds and resources to better the condition of other Native Hawaiians.⁴⁶ Thus, through OHA, which was envisioned as a receptacle for reparations, Native Hawaiians would get a semblance of self-government and self-determination. Indeed, the Hawaiian Affairs Committee acknowledged: “[t]he committee intends that [OHA] will be independent from the executive branch and all other branches of government although it will assume the status of a state agency.”⁴⁷ The Committee further envisioned OHA trustees having the power “to contract, to accept gifts, grants and other types of financial assistance and agree to the terms thereof, to hold or accept legal title to any real or personal property and to qualify under federal statutes for advantageous loans or grants These powers also include the power to accept the transfer of reparations moneys and land.”⁴⁸

42. See *Hawai‘i ‘78*, *supra* note 23, at 116, 120.

43. See YAMAMOTO, *supra* note 4, at 79-80 (“That responsibility generates an obligation to officially acknowledge the victims’ suffering and participate in repairing the damage.”).

44. *Id.* at 79.

45. See HAW. CONST. art. XII, §5.

46. 1 STATE OF HAW., *Standing Committee Report No. 59*, in PROCEEDINGS OF THE CONSTITUTIONAL CONVENTION OF 1978, at 643-44 (1980) [hereinafter 1978 PROCEEDINGS VOLUME I] (noting that the Hawaiian Affairs Committee was “unanimously and strongly of the opinion that people to whom assets belong should have control over them,” and that trustees of OHA would be elected “by all native Hawaiians”).

47. *Id.* at 645.

48. *Id.*

Although not a return of sovereignty, OHA provided a steppingstone toward an organized Native Hawaiian polity that could, in the future, advocate for additional resources or sovereignty. Thus, Yamamoto's third inquiry of *reconstruction* occurred in that there was, at minimum, a restructuring of institutions and the relationship underlying the injustice. This new agency created through the highest law of the land could successfully ensure the betterment of the condition of Native Hawaiians.⁴⁹

A key component of the constitutional amendment creating OHA was the inclusion of a funding mechanism to support the goals of the agency. Indeed, the constitutional amendment granted OHA's board of trustees with the power "to manage and administer the proceeds" from—among other sources—a "pro rata portion"⁵⁰ of the income derived from the Public Lands Trust, consisting of 1.4 million acres of former Kingdom Crown and Government lands set aside in trust at statehood to the newly created state to further several purposes, including the betterment of the conditions of Hawai'i's indigenous people.⁵¹ As envisioned at the constitutional convention, the state would annually provide OHA significant revenue to support Native Hawaiian healing and justice in areas such as education, healthcare, and housing.⁵² This agency and the promise of systemic funding satisfied the fourth inquiry of *reparation* in that it provided a means to transform the Native Hawaiian community with true economic justice.⁵³

Passage of the many constitutional amendments to support Hawaiians represented what one reporter called the "political apex" for Native Hawaiians. While the law's passage began the process of healing, true social healing did not occur.

Following the 1978 People's Convention, the victory of Hawaiian advancement in state governance was quickly dampened by a swift backlash—not by the public, but by politicians. State legislators earlier urged by the media and community organizations to stay out of the constitutional convention in 1978 returned to their political seats in 1979 and actively

49. See YAMAMOTO, *supra* note 4, at 84 ("Only when reconstruction tackles societal institutions as well as specific policies can a reconciliation, or social healing, initiative be integrated symbolically into a group's (or government's) moral foundation.").

50. HAW. CONST. art. XII, § 6.

51. See VAN DYKE, *supra* note 28, at 257-58.

52. 1978 PROCEEDINGS VOLUME I, *supra* note 46, at 644 (envisioning OHA to serve as a "receptacle for any funds, land or other resources earmarked for or belonging to native Hawaiians, and to create a body that could formulate policy relating to all native Hawaiians and make decisions on the allocation of those assets belonging to native Hawaiians").

53. See YAMAMOTO, *supra* note 4, at 86-87.

undermined the reparative intent of OHA.⁵⁴ In 1979, for example, the state senate refused to agree to a consistent mechanism for funding OHA, despite the “pro rata portion” of Public Lands Trust revenues mechanism clearly defined in the constitution.⁵⁵ Indeed, ignoring the constitutional language, the state senate concluded that “pro rata portion” was vague and, therefore, enacted a statute clarifying that OHA’s funds needed to be channeled through the normal legislative appropriation process.⁵⁶ In essence, this statutory change effectively vested control of OHA’s funds in the state appropriation process, thereby denying Native Hawaiians the ability to control their own assets and determine their own priorities. The legislative move gutted Native Hawaiian autonomy from the constitutional mandate and ripped apart the reconciliation process. One Native Hawaiian legislator chastised the state senate for undermining the reparative goals articulated at the 1978 constitutional convention: “[t]his version of the [OHA] is an insult, both to the Hawaiians it would pretend to serve and to all of the people of Hawaii.”⁵⁷

In 1980, the Legislature returned to clarify additional issues relating to OHA. But there was still resistance. One key senator implored supporters of the reparative measure to “take a look at the faces of the members of this committee”—individuals who were Chinese, Filipino, Japanese or Portuguese—and then, invoking a traditional tort law objection, stated, “[n]one of our ancestors had anything to do with the historic injustice you just talked about.”⁵⁸ Nevertheless, the state House ultimately convinced state senators of the need to define “pro rata portion” as twenty percent of all revenue from the Public Lands Trust, ensuring a systemic funding mechanism and self-governance inherent in the reparative goals of the constitutional convention’s delegates.⁵⁹

Interestingly, however, the agreement for a twenty percent share of revenue only came about because a Native Hawaiian legislator held “hostage” three bills of importance to the key hold-out senators, including a pension bill and a bill with pork barrel projects for their constituencies in the election year. Holdout politicians begrudgingly agreed to the twenty percent

54. See *Hawai‘i ‘78*, *supra* note 23, at 139 (noting that the 1979 Legislature failed to provide an adequate independent mechanism for funding OHA, failed to provide sufficient resources to support OHA’s mandate of bettering the conditions of Native Hawaiians, and failed to provide OHA with a strong executive).

55. *Id.* at 137.

56. *Id.*

57. H.R. 10TH LEG. JOURNAL, Reg. Sess. of 1979, at 996 (Haw. 1979).

58. BENJAMIN J. CAYETANO, *BEN: A MEMOIR, FROM STREET KID TO GOVERNOR* 185 (2009).

59. See *Hawai‘i ‘78*, *supra* note 23, at 143-44.

revenue only because their constituents began to pressure them on the “hostage” bills.⁶⁰

III. PŪPŪKAHI I HOLOMUA

The success of the 1978 constitutional convention and the stiff resistance at the 1979 and 1980 legislative sessions reinforce several core lessons gleaned from Yamamoto’s *social healing through justice* theoretical framework.

First, the success of social healing is dependent on bringing all participants “to a common commitment to genuinely engage” by having intensive public education, alliance-forging, and political lobbying.⁶¹ Indeed, the success of 1978 stemmed from there being the right people at the right time with the right tools to advance the cause of reconciliation. The leaders at the constitutional convention, like Frenchy DeSoto and John Waihe‘e, successfully framed the reparative measure by challenging the outdated and racist stock story of Hawaiian history.⁶² Their efforts, however, were not conducted in the vacuum of law making.⁶³ The convention delegates capitalized on the timing of the Hawaiian cultural, spiritual, and political renaissance. Their efforts succeeded because they had community members, scholars, artists, and media all on their side to frame the reparative efforts of the constitutional amendments to repair the historical harms against Native Hawaiians.

Yet, the creation of OHA would only bring about, at most, partial healing. A second lesson from Yamamoto’s framework makes clear that an important precondition for sustained social healing is to have all participants with a common commitment to genuinely engage at the decision-making table.⁶⁴ This brief episode of Hawaiian history only addressed issues between the Hawaiian community and the State of Hawai‘i. This effort did not address the significant healing necessary between Native Hawaiians and the United States.⁶⁵ Comprehensive and enduring Native Hawaiian healing will

60. *Id.*

61. See YAMAMOTO, *supra* note 4, at 24.

62. *Id.* at 78 (noting the importance of interrogating stock stories that perpetuate injustice for marginalized communities).

63. See Sharon K. Hom & Eric K. Yamamoto, *Collective Memory, History, and Social Justice*, 47 UCLA L. REV. 1747, 1765 (2000) (“[C]ontests over historical memory regularly take place on the terrain of culture—of which legal process, and particularly civil rights adjudication, is one, but only one, significant aspect.”) (emphasis omitted).

64. See YAMAMOTO, *supra* note 4, at 24 (noting that stakeholders “must be desirous of and perceive an interest in peaceable and productive group relations in a reconstructed society”).

65. In 2009, Eric Yamamoto and Ashley Kaiāo Obrey used the *social healing through justice* framework to assess United States-Native Hawaiian reconciliation initiatives. See Eric K.

only come about when the United States makes amends and meaningfully engages with the Hawaiian community.

Third, advocates for social healing must prepare and anticipate the “darkside,” and proactively engage the opposition to reparative justice.⁶⁶ The origin story of OHA highlights, as Yamamoto theorizes, the ways in which efforts for reconciliation to address historical injustices are fragile and need to be zealously safeguarded from erosion.⁶⁷ The delegates of the People’s Convention represented a diverse swath of the community willing to make significant changes to the status quo.⁶⁸ And they were successful. However, this victory was short-lived as the delegates underestimated the backlash and resistance and did not anticipate their efforts would be undermined by politicians wedded to the status quo. As Yamamoto argues, there must be a general willingness by those with power to concede some of that authority and to shift the power dynamic. In 1979 and 1980, those in power were not willing to concede their power. To highlight the conflicting visions of the reparative measure, consider that all the delegates of the constitutional convention that became legislators in 1979 and 1980 voted against the laws that watered down the reparative impact of the constitutional amendment establishing OHA. One delegate expressed that his biggest regret was that the constitutional amendment did not go further and provide clearer guidance on the reparative goals and the systemic funding mechanism.⁶⁹ In Hawai‘i in 1979 and 1980, the legislature’s (in)action not only compromised the constitutional convention delegate’s contribution to the healing process, but the very process itself. Reconciliation stalled. The legislators’ conduct

Yamamoto & Ashley Kaiāo Obrey, *Reframing Redress: A “Social Healing Through Justice” Approach to United States-Native Hawaiian and Japan-Ainu Reconciliation Initiatives*, 16 *ASIAN AM. L. J.* 5, 42-51 (2009) (concluding that the American government initially embraced *recognition* and *responsibility* during the Clinton administration, but ultimately failed to adequately provide *reconstruction* and *reparation* with the Bush administration); *see also* Troy J.H. Andrade, *Legacy in Paradise: Analyzing the Obama Administration’s Efforts of Reconciliation with Native Hawaiians*, 22 *MICH. J. RACE & L.* 273, 316-24 (2017) (critiquing President Barack Obama’s effort to provide a path to federal recognition for Native Hawaiians and concluding that it did not engender social healing).

66. YAMAMOTO, *supra* note 4, at 25 (“The sixth working principle is cautionary—the *darkside* of reparative justice process. It accounts for incomplete or stalled initiatives, calling out tepid or partial efforts as attempts to acquire ‘cheap grace’ or to deflect or even subvert organizing efforts for substantial changes in systemic power structures.”).

67. *Id.* (“In anticipating the darkside, it highlights the importance of community organizing, public education and political struggle along with acknowledgement of the societal costs of justice inaction—continuing mistrust or enmity, social divisions, a failure of social ideals and damages to societal stature.”).

68. *See Hawai‘i ‘78*, *supra* note 23, at 117-22 (describing Delegates DeSoto and Waihe‘e).

69. *Id.* at 131 n.369 (noting the regret of delegates for not clearly articulating a funding OHA mechanism).

ushered in a future for OHA riddled in crisis and broken promises.⁷⁰ It foreshadowed key stakeholders that always needed to be at the table for social healing to occur.⁷¹ Without their meaningful participation, social healing will continue to evade Hawaiians.

These highlighted lessons—and there are many more packed into Yamamoto’s book—resonate in the context of the justice struggles for Native Hawaiians. *Healing the Persisting Wounds of Historic Injustice* is an important contribution and is, no doubt, a significant addition to the canon of reparation and reconciliation literature. It helps organizers, scholars, and policymakers understand what went wrong and what needs to change to ensure true healing. It successfully provides a roadmap for helping communities solve their long-festering injustices, but also pragmatically suggests those instances where stakeholders are not yet ready to move forward. In the end, and in a time when there appears to be a pushback on critically educating the community in history and a time when the United States Supreme Court appears hostile to indigenous autonomy, we all must, as Yamamoto implores, come together to move forward—pūpūkahi i holomua.

70. See generally Troy J.H. Andrade, *Sword of History: The Struggle Over Collective Memory of Native Hawaiian Injustice as the Predicate to Reparative Action* (unpublished manuscript) (on file with Southwestern Law Review) (describing the turbulent political and legal history of OHA); Eric K. Yamamoto & Sara D. Ayabe, *Courts in the “Age of Reconciliation”: Office of Hawaiian Affairs v. HCDCH*, 33 U. HAW. L. REV. 503 (2011) (critiquing a decision of the Supreme Court of Hawai‘i related to a controversy between the Office of Hawaiian Affairs and the State of Hawai‘i).

71. See YAMAMOTO, *supra* note 4, at 24 (emphasizing that “[i]ntensive public education, alliance-forging and political lobbying will likely be necessary to bring participants to a common commitment to genuinely engage”).