

The Sense of Sacred: Mauna Kea and Oura Bay 神聖なるものを前にして マウナ・ケアと大浦湾

William B.C. Chang, Katherine Muzik

Update on the Mauna Kea telescope (<http://www.nytimes.com/2016/10/04/science/hawaii-thirty-meter-telescope-mauna-kea.html>)

Introduction

“Sacred is not necessarily a place. It is a relationship, a deep visceral relationship: beyond reason, beyond law, beyond rationality.”

These words were recently spoken by William B.C. Chang, a University of Hawaii Law Professor, in his impassioned testimony to the UH Board of Regents, about the current conflict on Mauna Kea here in Hawaii.

To the Hawaiians, the Mountain known as Mauna Kea, or Mauna a Wākea, on the Island of Hawaii, is a sacred place. Thus, the proposed construction of the northern hemisphere’s biggest telescope, thirty meters tall (TMT), 18 stories high, on eight acres of the mountain top, costing \$1.4 billion, has recently sparked peaceful but ardent protests and occupations by Native Hawaiians, environmentalists and allies across the Pacific. With 13 telescopes already blighting the landscape, the protesters seek to prevent further desecration.

To the Okinawans, the Sea known as Oura Bay, on the Island of Okinawa, is also a sacred place. For nearly two decades, Okinawans have protested its destruction by US/Japan military expansion.

Besides being sacred and beautiful, what else do these two very distant places share? They

share history, of illegal takeovers by a foreign power and the subsequent, on-going outrage among the local populations. Locals in Hawaii and Okinawa are deeply angered by the heinous and reckless environmental destruction their islands have suffered. They are frustrated by the destruction that continues, despite prolonged protests. In both cases, illegal land-grabs by the US have resulted in the waste of their natural resources and the disintegration of their cultural identities. However, being sacred, both places continue to inspire passionate and courageous struggles against foreign dominance.

The Hawaiian Islands were once a kingdom, a sovereign nation. In a series of events, the Hawaiian monarchy was overthrown in 1893 by a group of US and European businessmen, ending in annexation as a “Territory of the United States” in 1900. And so too, were the Ryukyu Islands, sovereign. Invaded by Satsuma forces in 1609, they were formally annexed by Japan in 1879 as “Okinawa Prefecture”. After World War 2, the US “acquired” Okinawa from Japan, establishing military bases which have remained and proliferated, destructively, for the last seventy years.

The Title of this Introduction, “Sense of Sacred” alludes to a fine book entitled “Sense of Wonder”, by Rachel Carson, a book with which almost all Japanese children are familiar, although Americans are not, not at all! Published posthumously, it was (and still is) unknown to most American readers, even those deeply moved by her influential book, “Silent Spring”.

Chang’s “sacred”, like Carson’s sense of “wonder”, is a sense, a deep relationship, beyond rationality. She powerfully wrote, “Those who contemplate the beauty of the earth find reserves of strength that will endure as long as life lasts.”

The Desecration of Mauna Kea



Testimony of Williamson B.C. Chang (<https://www.law.hawaii.edu/personnel/chang/williamson>), Professor of Law, April 16, 2015 at a meeting of the University of Hawai'i Board of Regents, University of Hawai'i at Hilo.

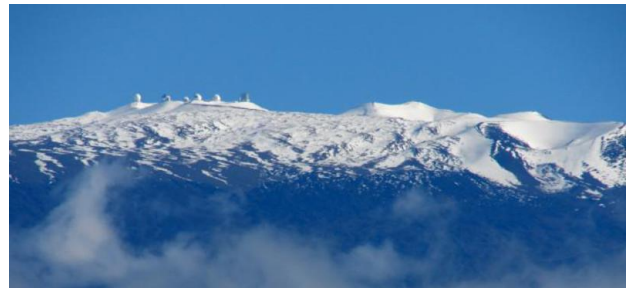
Honorable Board of Regents (<http://hawaii.edu/admin/regents/index.php>):

I have had the honor and pleasure to serve as a Professor of Law at the University of Hawai'i for the last 39 years. I have served the

University and the community well. I am also grateful for the opportunity to serve and work in the University.

Let me start by saying this: I know a place, I know a country where there would never be a question whether to build an eighteen-story thirty meter telescope on the summit of Mauna Kea. That country, that nation, is “Hawai'i.”

Before 1893, it would have been unthinkable that the Government of the Kingdom of Hawai'i would ever conceive of such a plan. Yes, Kalakaua loved astronomy. All Hawaiians loved the stars. However, they loved Mauna Kea even more. Mauna Kea is “sacred” it is the Sky-Father it is the essence, the beginning of the creation chant of the Hawaiian people. All Hawaiians, all Islands, even Taro are descendants of Mauna Kea.



When I say “Mauna Kea” is sacred, I do not mean to use “sacred” the way most people use that term. I mean “sacred” not in the same sense of worship. I use “sacred” in the sense of “precious” and “so important that nothing else counts”—I apply it to those things and people that we care so much about that we would do anything, even flout and break the law, to preserve their existence.

The child of a parent, especially a young child is “sacred” in this sense. So are parents to their children. So are grandparents. Even the family pet is “sacred.” If your house was burning down would you risk your life to go into the

burning house to rescue your children, your mother, your grandparents, even your beloved dog or cat? Would you go even if forbidden by first responders, firemen or policemen? Yes, many of us would go without hesitation—without thinking of the consequences. Would you give a kidney to save or extend the life of your child, your brother, your uncle? Would you spend all of your money to save a loved one from cancer? from Lou Gehrig’s disease or from a life in prison without parole? Yes, we all would.

Moreover, we praise such emotions and desires of others who make such sacrifices every day. We understand the soldier who sacrifices himself by instinctively jumping on a grenade. We understand the parent or grandparent who gives all their money to see their child or grandchild through college.

Whether one worships Mauna Kea or not, whether one considers it “sacred” does not matter as much as understanding the instincts that drive those to defend and save Mauna Kea—much as one would understand the absolute love for a child, or a parent even if such acts break the law.

When we see the instinct of family, of brotherhood, of sisterhood of love for mankind in others we celebrate that—we gravitate to that. We love and defend Mauna Kea because it reminds us what makes us human. Sacred is not necessarily a place. It is a relationship, a deep visceral relationship: beyond reason, beyond law, beyond rationality.

The Mauna Kea movement is a movement that has grown because of young people. They live in new confusing world themselves—a world of cognitive dissonance. That is they live within an outright contraction—a Hawaii in decline where there is nothing they can do. They see their world being attacked and destroyed, its water taken, its plants doused with foreign chemicals, its agricultural lands disappear in the name of gentlemen farmers, its open lands used for artillery practice, and its shoreline

becoming high-end condominiums that only rich foreigners can afford.



Moreover, to the young, Hawaii is unlivable, there is no viable future: There are no places to rent, no jobs that fit their training, no money for retirement and the endless, life-sapping traffic congestion. And now an eighteen story telescope on Mauna Kea!



It would never be built on other sacred sites: not over the Western Wall, the Dome of the Rock, Angkor Wat, Gettysburg, Arlington, or the Arizona Memorial? No one would think of putting a pair of glasses on the eyes of God. Why then, Mauna Kea? We, and our youth are inundated today with the attacks on the treasures of the earth and why?

So, what happened to this “nation” called Hawai’i, where Mauna Kea was loved and

adored? Hawai'i was a nation, that by a series of events, starting with an overthrow in 1893 and ending with annexation in 1900, by which another nation, the United States, forcefully took the sovereignty of Hawai'i.

What do I mean by that?—to take one nation's sovereignty? Sovereignty is the monopoly of a government on the legitimate use of violence.

By that I mean the State, the police and the Department of Land and Natural Resources (DLNR) are the only ones today who can do so-called "legal" violence to Mauna Kea. Similarly, the police of Hawai'i County and the officers of DLNR are the only ones who can use the violence of arrest and jail or fine to force down the protectors of Mauna Kea. Protect the mountain and you go to jail. It is legal. It is called law. It is a power possessed only by the sovereign of a nation. There once was a time in Hawaii when that monopoly on the use of legal power protected not defiled Mauna Kea.

In 1893 and 1900 a new Nation took over in Hawai'i—a new nation with new rules. These were new rules that had the power to interfere with our very human, emotions and instincts, instincts derived over time from our kupuna, our ancestors and the culture of this nation of Hawai'i. Hawai'i has changed.

Today, government has the legitimate power to do violence to families as well. Government agencies can take a child away from a parent. Government agencies can put a Hawaiian in prison for the smallest of offenses—denying him or her freedom and the chance to be with and raise their families. The world of Hawai'i has been turned upside down.

The answer lies in power, that is law—the shift over their lives by which all is reversed.

In 1898 the United States, by Joint Resolution took the nation of Hawai'i. I am a legal historian. In the appendix attached I show my work—that concludes definitively that the joint

resolution had no such power. It was impotent, it was an act of Congress not a treaty. It could no more take Hawai'i by a law than Hawai'i by a law could take America.

It was a fraud—it created a disease that spread, a malaise we all suffer—called the myth of annexation. We all believe we are part of America, we all act as if that were true. We have been taught that way. We follow the lead of others who act that way.

The truth is that the joint resolution did not give to the United States the monopoly on the use of legitimate violence—a violence to build on Mauna Kea, the violence to arrest those who seek to stop that building. Most of all the University claims Mauna Kea by lease—a lease derived from the Joint Resolution.

It is said that the Joint Resolution gave Mauna Kea to the United States, which gave it to the State, which gave it to the University. As a matter of law that is false. It is a lie. The University has no power over Mauna Kea. It cannot build, it cannot give permits, it cannot arrest us.

The mass of young people are here today in protest because we live in a world of cognitive dissonance. They live in a world where they are learning, at the University about the truth of the Joint Resolution, which gives no power, no sovereignty to the state. Outside of their classes they see the State taking what they love—preventing them from running into the burning house to save their Mauna Kea, their father, their sky-father.

And this dissonance makes them ill. It makes our youth sick. It is a crisis that creates mental illness. In short, to build on Mauna Kea is to cast a sickness throughout these islands, a sickness and sadness, not only on Native Hawaiians but on all people who live here.

I have included an appendix, taken from my work, which speaks to the myth of annexation

and demonstrates that the Joint Resolution had no capacity to take the Nation of Hawai'i. I will place this testimony and my appendix on my "Scholar Space" at Hamilton Library, the University of Hawai'i at Manoa, under my name. This is the link (<https://scholarspace.manoa.hawaii.edu/handle/10125/35797>) to that site.

Mahalo and Mahalo Ke Akua. Williamson Chang Professor of Law

"Go Tell it to the Mountain: " How Native Hawaiians Almost Lost Mauna Kea

By Williamson Chang University of Hawai'i William S. Richardson School of Law April 25, 2015

"It may not be readily apparent how Hawaiians in 1770 practicing their religion will have almost lost their most sacred mountain, Mauna Kea, in 2015.

The system by which the Hawaiian understood the world and ordered their daily lives, was interpreted by outsiders to the detriment of Hawaiians

In time, this outside interpretation gained authority as a series of extraordinary political, social and economic events in Hawaii placed outsiders in a position to make conclusive assumptions about the Hawaiian.

Simply thinking and acting as a Hawaiian accelerated the downfall. An inability to reject the West, as the West becomes a larger and larger part of one's life, renders the individual vulnerable.

Not understanding how one's own actions are interpreted, one faces a choice between a loyalty to one's own culture at an unknown cost or meaningless imitation of Western forms at the cost of alienation from one's own self.

Unexpected consequences befall ordinary

Hawaiian actions and experiences: lands are lost, paper and "title" supplant traditional duties and kuleana [responsibilities].

Lacking notice and knowledge of rules according by which one's actions will be measured, one experiences chaos and anxiety instead of the predictable and stable environment law is designed to provide.

For example, leaving one's lands fallow as a sound, customary environmental practice enables Westerners to adversely possess them for failure to sue in trespass.

An effective and real Hawaiian order centered around a Hawaiian cosmology chaotic to Westerners is now displaced by a Western order chaotic to Hawaiians. Westerners come to feel at home in Hawaii, while Hawaiians come to feel lost.

Central to the Western order is its centuries-old Eurocentric legal system. Hawaiians act as Hawaiians at their peril, since Hawaiian actions will have unintended meanings when evaluated in terms of the Western model. The "reasonable man," in short, does not act like a Hawaiian. As the Western model becomes the consequential model one eventually cannot afford to act as a Hawaiian, since the Western (and only operational) legal system in Hawaii penalizes "unreasonable men."

One may still sense that one is a Hawaiian and have Hawaiian thoughts and emotions, but since one's intuitive actions will be evaluated incomprehensibly, action itself is discouraged. One is then chastised for laziness. That is, a rational strategy for avoiding danger and pilikia is perceived as indolence.

When Westerners serving as Her Majesty's Cabinet members, (i.e. Hawaiian subjects engaging in treason) plotted to overthrow the monarchy, Hawaiians were instructed by Queen Liliuokalani not to resist; she urged them to have faith in the U.S. government.

A responsible government would never ratify this violation of international law by its pied noirs. The subsequent submission of Hawaiian militants to the will of their ruler would ultimately appear to have been submission to the annexation of Hawaii by the United States, i.e. to the disappearance of Hawaii as a country off the face of the earth.

The collision of values over the future of the most sacred Mountain in the Pacific reveals how law, politics and the Western greed for “knowledge,” reconstructed the Hawaiian’s own beliefs in their view of creation and the cosmos to the benefit of Westerners and, incredibly, to the detriment of Hawaiians themselves.

Taken and modified from: From: Williamson Chang, “The Life of the Law is Perpetuated in Righteousness: The Jurisprudence of William S. Richardson,” *University of Hawai’i Law Review*, Vol. 33:99 at 112 (2010) [With particular thanks to Larry Storch (deceased) and Brian Nakamura (deceased)].

Professor **Williamson Chang** was born and raised in Honolulu, Hawai`i. He graduated from Princeton University with degrees in Asian Studies and from the Woodrow Wilson School of Public and International Affairs. Thereafter, he attended the University of California, Berkeley [Boalt Hall] where he was an editor of both the *California Law Review* and the *Ecology Law Quarterly*. He clerked for U.S. District Court Judge Dick Yin Wong in Honolulu and began teaching at the University of Hawai`i in 1976. Professor Chang has done

extensive work in the development of water rights and the state water code. He served as a Deputy Attorney General. He was extremely active in the development of the state water code and drafted the state water code as a reporter for the Advisory Commission on Water Resources. He also helped to found the Native Hawaiian Advisory Commission where he also served as Litigation Director.

Marine biologist **Katherine Muzik** Ph.D., is director of Kulu Wai, Kauai, Hawai’i. She has many years experience of research in Japan and Okinawa.

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