

Criminal Behavior as an Expression of Identity and a Form of Resistance: The Sociolegal Significance of the Hawaiian Cockfight

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This article analyzes the sociolegal significance of a highly localized form of illegal behavior: the Hawaiian cockfight. Drawing on ethnographic data gathered at illegal cockfights in Hawaii, as well as in-depth confidential interviews of cockfighters, this article depicts the activity as it occurs on the ground, from the fighters' perspective. The men who engage in cockfighting derive at least two meanings from the illegal activity. First, cockfighting expresses a man's central identity as a Hawaii "local," embodying a positive cultural assertion that honors cockfighters' family histories and establishes a man's value as an intelligent, trustworthy member of his community. Second, in the throes of legal, economic, and demographic changes to Hawaii, cockfighting has taken on an important meaning as a "resistance" activity that stands in opposition to these developments, particularly because of the pervasive sense of futility that locals tend to experience when they interact with the legal system. These two purposes, identity and resistance, are opposite sides of the same coin. In asserting local identity, cockfighters are able to communicate who they are; in resisting changes, they are able to communicate who they are not. This article also argues for the importance of considering local

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context in designing law enforcement measures by demonstrating the importance of cultural legitimacy to on-the-ground policing practices.

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INTRODUCTION

Cockfighting is illegal in Hawaii,¹ in the other forty-nine states, and under federal law.² The first anti-cockfighting law in Hawaii was passed in 1884, seventy-five years before the islands’ statehood.³ The Hawaii Penal Code, adopted in 1972, has kept the gist of the longstanding misdemeanor law intact.⁴

1. HAW. REV. STAT. § 711-1109(1)(c) (2013).

2. Animal Fighting Prohibition Enforcement Act of 2007, Pub. L. No. 110-22, 121 Stat. 88 (codified as amended at 7 U.S.C. § 2156 (2012) and 18 U.S.C. § 49 (2012)).

3. 1884 Haw. Sess. Laws ch. 51, § 2 (“Any person who shall keep or use, or in any way be connected with or interested in the management of, or shall receive money for the admission of any person to, any place kept or used for the purpose of fighting or baiting any bull, bear, dog, cock, or other creature, and every person who shall encourage, aid or assist therein, or who shall permit or suffer any place to be so kept or used, shall, upon conviction thereof, be adjudged guilty of a misdemeanor.”).

4. State v. Kaneakua, 597 P.2d 590 (Haw. 1979).

Periodically, harsher regulations have been proposed.⁵ For example, in 2008 the state legislature considered, but ultimately rejected, a proposal to make the activity a felony.⁶ A more elaborate bill, which would make it a felony to participate in virtually *any* aspect of a cockfight—including organizing a cockfight, allowing a cockfight to take place on one’s property, attending a cockfight, or training a rooster in preparation for a cockfight—is under consideration by the Hawaii state legislature.⁷ As of this article’s publication, cockfighting is a felony in most states⁸ but remains a misdemeanor in Hawaii.⁹

Beyond its Geertzian¹⁰ resonance, the practice of cockfighting is an ideal site for examining criminal behavior’s embeddedness in social context. Its unusual combination of attributes includes striking parallels to, and differences from, other illegal behaviors. Like the Native American’s use of peyote in ceremonies,¹¹ or female genital cutting,¹² cockfighting has cultural significance for participants, yet cockfighting’s significance is not primarily religious or racial. Like graffiti artist collectives,¹³ cockfighters see their activity as “resisting” dominant norms, yet cockfighters’ resistance is private, not shared with the larger world. Like other blood sports, participants and spectators

5. Occasionally, anticockfighting laws have been challenged on the grounds that cockfighting constitutes an important Hawaiian cultural activity. See, for example, *Kahaikupuna v. State*, 124 P.3d 975 (Haw. 2005), which I discuss more fully *infra* note 234.

6. S.B. 2552, 24th Leg. (Haw. 2008), http://www.capitol.hawaii.gov/session2008/bills/SB2552_.htm [<http://perma.cc/32HY-PRFK>]. The Ohio and South Carolina state legislatures both considered (and rejected) similar proposals that year. Nancy R. Hoffman & Robin C. McGinnis, *2007–2008 Legislative Review*, 15 ANIMAL L. 265, 279 (2009).

7. S.B. 590, 28th Leg. (Haw. 2015), http://www.capitol.hawaii.gov/session2015/bills/SB590_.pdf [<http://perma.cc/VA5P-YVAK>].

8. Angela N. Velez, *Olé, Olé, Olé, Oh No!: Bullfighting in the United States and Reconciling Constitutional Rights with Animal Cruelty Statutes*, 115 PENN. ST. L. REV. 497, 515 (2010).

9. Cockfighting generally falls under cruelty to animals in the second degree, which is a Class C misdemeanor under the Hawaii Penal Code. HAW. REV. STAT. § 711-1109(1)(c) (2013); see also *Kaneakua*, 597 P.2d at 592 (clarifying that Hawaii’s animal cruelty statutes unambiguously prohibit cockfighting).

10. In a well-known essay, anthropologist Clifford Geertz analyzed the significance of the Balinese cockfight as a way for Balinese men to symbolically enact larger social dynamics. Clifford Geertz, *Deep Play: Notes on the Balinese Cockfight*, in *THE INTERPRETATION OF CULTURES* 412 (1973).

11. See, e.g., Joseph D. Calabrese, *Clinical Paradigm Clashes: Ethnocentric and Political Barriers to Native American Efforts at Self-Healing*, 36 ETHOS 334 (2008); Thomas J. Csordas, *Ritual Healing and the Politics of Identity in Contemporary Navajo Society*, 26 AM. ETHNOLOGIST 3 (1999); Steve Pavlik, *The U.S. Supreme Court Decision on Peyote in Employment Division v. Smith: A Case Study in the Suppression of Native American Religious Freedom*, 8 WICAZO SA REV. 30 (1992).

12. See FEMALE “CIRCUMCISION” IN AFRICA: CULTURE, CONTROVERSY, AND CHANGE (Bettina Shell-Duncan & Ylva Hernlund eds., 2000); Eric K. Silverman, *Anthropology and Circumcision*, 33 ANN. REV. ANTHROPOLOGY 419 (2004).

13. See Jeff Ferrell, *Urban Graffiti: Crime, Control, and Resistance*, 27 YOUTH & SOC’Y 73 (1995); Richard Lachmann, *Graffiti as Career and Ideology*, 94 AM. J. SOC. 229 (1988); Martin A. Monto et al., *Boys Doing Art: The Construction of Outlaw Masculinity in a Portland, Oregon Graffiti Crew*, 42 J. CONTEMP. ETHNOGRAPHY 259 (2013); Holland Cotter, *The Collective Conscious*, N.Y. TIMES (Mar. 5, 2006), <http://www.nytimes.com/2006/03/05/arts/design/05cott.html> [<http://perma.cc/GRV2-RZC2>].

wager on the outcome, yet cockfighters who care too much about the sport's financial aspect are considered to be unserious competitors by their peers. These similarities and differences make cockfighting an intriguing social space in which to think about the social processes that underlie people's participation in illegal activities.

This article resurrects, draws upon, and contributes to the tradition of classic sociolegal studies in law and society work, such as Robert Ellickson's account of dispute resolution among neighbors in Shasta County¹⁴ and David Engel's examination of people's attitudes toward litigation in a small Illinois community.¹⁵ I explain how assertions of identity and expressions of resistance can function as opposite sides of the same coin. In asserting local identity, cockfighters communicate who they are; in resisting changes, they communicate who they are not.

Through multiple ethnographic methods, I probe the social meanings that underpin an illegal phenomenon to discern the relationship between law and social norms on the ground. Bernard Harcourt,¹⁶ Robert Weisberg,¹⁷ and others have lamented that especially in the criminal realm, in-depth qualitative analysis has become relatively uncommon.¹⁸ Underlying my substantive examination of the embedded nature of cockfighters' law-breaking activity in their social milieu is an argument for the illuminative potential of ethnography and "thick description" for our understandings of criminal law in its sociolegal fullness. Analyzing the motivations of men who break cockfighting laws enables conclusions not only about the meanings of an illegal phenomenon but also about localized law enforcement efforts in cultural context.

Part I situates this article within the field of criminal sociolegal scholarship and details my methodology, including how I gained access to this secretive, illegal subculture. Part II describes the fights' mechanics, steeping readers in the social milieu, cockfighting protocols, and vocabulary. Part III

14. ROBERT C. ELLICKSON, ORDER WITHOUT LAW: HOW NEIGHBORS SETTLE DISPUTES (1991); Robert C. Ellickson, *Of Coase and Cattle: Dispute Resolution Among Neighbors in Shasta County*, 38 STAN. L. REV. 623 (1986).

15. David M. Engel, *The Oven Bird's Song: Insiders, Outsiders, and Personal Injuries in an American Community*, 18 LAW & SOC'Y REV. 551 (1984).

16. Bernard E. Harcourt, *After the "Social Meaning Turn": Implications for Research Design and Methods of Proof in Contemporary Criminal Law Policy Analysis*, 34 LAW & SOC'Y REV. 179 (2000).

17. Robert Weisberg, *Norms and Criminal Law, and the Norms of Criminal Law Scholarship*, 93 J. CRIM. L. & CRIMINOLOGY 467 (2003).

18. Some works on community policing point in this direction but tend not to engage legal consciousness directly, showing more interest in the practical efficacy of particular policing strategies. See, e.g., David Thacher, *Conflicting Values in Community Policing*, 35 LAW & SOC'Y REV. 765 (2001). Other works focus on citizens' reactions to these policing strategies. See, e.g., Laura J. Hickman & Sally S. Simpson, *Fair Treatment or Preferred Outcome? The Impact of Police Behavior on Victim Reports of Domestic Violence Incidents*, 37 LAW & SOC'Y REV. 607 (2003); Carroll Seron et al., *Judging Police Misconduct: "Street-Level" Versus Professional Policing*, 38 LAW & SOC'Y REV. 665 (2004).

lays the groundwork for the subsequent analysis by explicating the meaning of “local” to my subjects, discussing the relationship between race and local identity, and elaborating on the precarious and volatile legal, political, social, and economic terrain that locals inhabit in rural Hawaii.

Parts IV and V detail cockfighting’s twin meanings as an assertion of identity and a form of resistance. Part IV analyzes the significance of cockfights to the fighters’ assertion of a positive identity, aspects of which include competence, intelligence, connection to family history, and most importantly, identification as a “local” of the island—all markers of social status. Part V details the cockfights’ meaning as a resistance activity and explains how local beliefs about law and bureaucracy, including a pervasive sense of futility, contribute to locals’ interpretations of their own engagement in this form of criminality.

Part VI situates the study as an example of ethnography’s potential to enrich and inform law and norms scholarship. I argue that cockfighting illustrates important principles about law enforcement more generally, particularly the policing of other culturally salient crimes within specific local contexts. The article offers suggestions for more effective policing and argues that without a deeper sense of the purposes cockfighting serves in Hawaii, prohibitions are shortsighted and unlikely to be effective.

I. METHODOLOGY

When I describe this work, it is not uncommon for a listener to respond along the lines of: “Hawaiian cockfighting—isn’t that a little . . . *niche*?” This question gets to the heart of ethnography’s purpose. Broadly speaking, ethnographic studies are valuable precisely because they *are* niche. A useful ethnography looks in depth at a particular group, activity, or other slice of social life. Its purpose is not to “prove” a theory,¹⁹ but rather to develop a nuanced, multilayered understanding of a social process or processes.²⁰ This makes ethnography an especially useful means of studying the “law on the ground” because the way people experience, think about, and act with regard to law is highly nuanced, situation contingent, and inconstant.²¹

19. Theories are not “tested” because an in-depth look at a single case is not a “test.” Instead, participant-observation work is generative: it seeks to understand the social and psychological complications embedded in social processes, and in doing so, to create a deeper theoretical understanding of human life.

20. For example, a quantitative analysis of a data set which shows that more black citizens are arrested than white citizens might raise a compelling case that reform is needed. An ethnographic study of police decision making in the field could not prove this disparity’s existence. However, the latter study would likely tell us more about *why* the disparity exists (e.g., are the officers acting out of fear, ignorance, anger, or unconscious bias?) and thus better help us understand the kinds of reforms that should be pursued. Different methodological approaches produce different kinds of knowledge.

21. PATRICIA EWICK & SUSAN S. SILBEY, *THE COMMON PLACE OF LAW: STORIES FROM EVERYDAY LIFE* (1998).

The data I gathered could *only* have been gathered through ethnographic means. No data set exists that could reveal these kinds of social processes. No surveyor would know to survey this population in the first place, or how to find members of the cockfighting community, or what to ask them. Because qualitative methodology is not common knowledge to all legal scholars, I discuss my methods in rather exacting detail. Readers with little interest in qualitative methodology may wish to skip directly to Part II.

A. *Gaining Access to the Cockfighting Subculture*

Before detailing my data-gathering procedures, it may be useful for some readers to understand how I gained entry to this secretive, illegal subculture. In this Section, I will also describe the ways my own identity may have affected data collection, and the steps I took to earn subjects' trust.

My serendipitous prior acquaintance with a handful of cockfighters in rural Hawaii was my initial entry point. One of these acquaintances, "Vincent,"²² was a Portuguese²³ man in his early sixties who had attended cockfights since childhood and bred and fought roosters for over thirty years. From Vincent, I began to learn cockfighting terminology, understand the differences between cockfighting on "Moa"²⁴ and the mainland, and see the significance of the many discrete aspects of cockfighting, such as how to tie a knife onto a bird's foot.²⁵

Cockfighting season runs from Thanksgiving until mid to late summer. I scheduled my research for the end of the season, in May and June, when fights are most numerous. Vincent allowed me to stay with him, and in return I helped him with household chores, including feeding and caring for his roosters. In addition to sharing his vast cockfighting knowledge with me, Vincent took me to the fights and introduced me to people he knew, which gave me a starting point for making connections. In participant-observation and interview work, gaining subjects' trust is crucial, and having an insider vouch

22. "Vincent" is an alias. Because of the sensitive nature of this research, I used aliases for people and places throughout my notes. I also obscured the physical locations of illegal activity and cockfighters' homes, and altered or omitted immaterial information that would have identified anyone I interviewed or observed if my notes were subpoenaed. The same strategies for protecting informants' identities and the sites of illegal activities are used in this article.

23. All of my informants were American citizens. When I say "Filipino," I mean Filipino-American. "Portuguese" means Portuguese-American, and so on. I omit "-American" in my account to stay consistent with terms the subjects used.

24. Moa, of course, is a pseudonym. I should say, however, that my research did not take place on Oahu. Oahu is the largest, most populous, and most commercially developed of the Hawaiian islands. Because residents of other islands often talk about themselves in relation to Oahu, and because Oahu's cockfighting culture is different from the other islands', it is important to specify that my research did not take place there.

25. I met some of Vincent's cockfighting associates on an initial research trip. Back on the mainland, I became an avid reader of game fowl magazines (specifically *The Game Cock* and *Grit and Steel*). The combination of making these initial contacts and consuming game fowl magazines provided an excellent head start when I returned to the field several months later.

for me was invaluable. As a female, a white mainlander, and a researcher, it was particularly important to ensure that subjects felt comfortable. This was doubly so given cockfighting's illegal status.²⁶

One aspect of my identity that sometimes discomfited informants was my affiliation with a well-known university. Some fighters assumed that I was a rich mainlander "slumming" on Moa. For example, Pat, a Filipino man in his sixties who ran the largest weekly fights, hosted the first backyard fight I attended. Pat was highly respected by the other fighters and owned a large rooster farm. He asked about my personal background, and I answered him honestly. He seemed pleased that my work history included low-wage jobs. Whenever fighters said things like, "Man, you must be smart to be at Stanford," I responded with remarks like, "Yeah, for a Portagee!" "Portagee" is the term locals use to refer to Portuguese people. I am partly of Portuguese descent, and my comment was a self-deprecating joke playing on a local stereotype that Portuguese people are unintelligent.²⁷ This helped diffuse tension around our disparate educational backgrounds, as did "talking story."²⁸ My basic

26. During interviews, I wrote notes rather than making audio recordings, since it quickly became clear that cockfighters were not willing to talk on tape. I received permission from all interviewees before taking written notes. I also gave subjects the opportunity to read over notes for accuracy and keep them if they wished. No one took me up on these offers, but several people indicated that the offers reassured them of my neutral intentions. Predictably, a few fighters were worried that I might be an undercover officer or an animal rights activist. To help assuage these fears, I concealed my discomfort with cockfighting. If I was asked whether I thought it should be illegal, I said I did not know or had not thought enough about it. I took care not to flinch or cringe during matches. It also helped to show my genuine interest in cockfighting (e.g., sparring birds and trading cockfighting magazines) and to mention (truthfully) that my great-grandfather had been a cockfighter on the same island many years ago. As the reader may assume, I oppose cockfighting as a practice and found the fights very difficult to watch. To conduct this research effectively, it was necessary not only to suppress my own opposition to the practice but also to become accustomed to seeing roosters experience pain. As an animal lover, this was extraordinarily unpleasant. For purposes of this article, it does not make sense to discuss this aspect of my research in any more depth. But this omission is emphatically *not* intended to minimize the significance of the animals' suffering.

27. Invoking this stereotype was a calculated and somewhat fraught decision. On one hand, these kinds of stereotypes are harmful and using them is problematic. On the other hand, it was the type of casual, self-deprecating, and somewhat customary remark that is common among locals, and I only employed it when I felt that my educational background was making it difficult for locals to feel comfortable around me. It also mattered to me that Portuguese-Americans are not, on the whole, a particularly "oppressed" group in America; thus, my use of the stereotype to describe myself was unlikely to affect anyone's perception of Portuguese-Americans as a whole.

28. The term "talk story" is used in Hawaii to describe informal, sometimes rambling conversation in which speakers and listeners often find common ground. It is somewhat synonymous with the mainland phrase "shooting the breeze." See Karen Anne Watson, *Transferable Communicative Routines: Strategies and Group Identity in Two Speech Events*, 4 LANGUAGE SOC'Y 53, 54 (1975); *Talk Story Newsletter*, SMITHSONIAN INST., https://www.researchgate.net/publication/231824730_Transferable_Communicative_Routines_Strategies_and_Group_Identity_in_Two_Speech_Events [perma.cc/C8K5-6XXL] (last visited Sept. 6, 2016).

knowledge of Hawaiian Pidgin also allowed people to speak to me without adjusting their usual speech.²⁹

I expected that being female would make it more difficult to build connections in the nearly all-male environment of the cockfights. Perhaps it did, but being a woman actually offered surprising advantages. For one, I was physically unthreatening. For another, since women do not participate in the fights, no one assumed I was part of Vincent's "gang,"³⁰ even though I attended fights with him. Had I been male, it may have been difficult to engage members of other gangs in conversation, since fighters would have viewed me as a potential opponent. Being a woman may also have offered me a window into cockfighters' emotional lives. Informants openly discussed humiliation, grief, and personal doubts with me—subjects they rarely broached with other men present.³¹ And a few cockfighters' female family members approached me and chatted informally, which was a very useful source of information.³²

29. The only major problem I had developing trust dealt with my inability to place bets or "pinto" the fighters, which everyone there was expected to do. The terms of my hard-won approval from my university's research compliance office (to say nothing of personal ethical objections to betting on animal fights) prevented me from wagering on the fights or "pintoing" anyone. When I was asked to do so, I replied, "I can't," or "I'm not allowed to do stuff like that." Usually this passed without comment, and occasionally Rhett teased me for only being "allowed to take notes." But sometimes I felt tension about my unwillingness to participate financially in the fights, particularly from one fighter's wife, Josie, who was in charge of collecting money. Josie even expected her young daughters to "pinto Daddy," once scolding one of them for "wasting money on video games" and coming to the cockfights empty-handed.

30. In Hawaiian cockfighting terminology, a "gang" is very different from the typical "criminal street gang"; instead, a "gang" simply refers to the group of people (often close friends or family members—all men) with whom a cockfighter attends fights. Other friends, and occasionally female family members, may be more loosely affiliated—sitting in camps and betting with the gang, but taking part in no other cockfighting activities.

31. If another man walked within earshot while we were discussing an emotionally fraught topic, the interviewee would stop talking, crack a joke, or change the subject. A few cockfighters wept during interviews and asked me not to tell their friends. I doubt they would have felt sufficiently at ease to cry in front of another man.

32. This is not to say that gender never arose as a problem. Early in my research, I was sometimes required to "prove" myself before a fighter would agree to be interviewed. Because many fighters assumed women were squeamish, they watched me carefully to make sure I did not flinch during fights. Other times, the "testing" challenged my presence in a male environment. A fighter might say something misogynistic or blow cigarette smoke into my face. When I showed no reaction, the behavior typically stopped, and I would be included in the conversation. When I was conscious of being treated differently from men, it generally came in the form of everyday chivalries. For example, at backyard fights, a host might retrieve a chair for me. Sometimes a man would flirt jokingly with me, and once, the leader of a rival gang made sexually explicit comments. But these incidents were rare. I suspect it also helped that I was a close friend of Vincent, who was well known in cockfighting circles.

I wore jeans, t-shirts, and muddy boots or sneakers—the same attire worn by fighters. I also wore a wedding ring to indicate that I was "off limits." I engaged in "masculine" activities whenever I could—for example, going to bars with informants to watch ultimate fighting matches. I wanted to be perceived as a "tomboy," but not as gender deviant or gender nonconforming. I wore makeup, earrings, and long hair. My goal was to create a physically feminine but socially "least gendered" self. See C.J. PASCOE, DUDE, YOU'RE A FAG 176 (2007). My approach was similar to Pascoe's self-presentation while studying teenaged boys. To avoid being targeted as an object of adolescent boys' sexual desire, Pascoe "tried to manage . . . use of [herself] as a masculinity resource

B. Gathering Data

Cockfighters in Hawaii divide fights into three categories: backyard fights, derbies, and hack fights. Backyard fights are small and informal, taking place between friends for small amounts of money, perhaps fifty or one hundred dollars. Derbies are formal tournaments, with brackets and random matchups between participants. Fighters are typically required to enter a set number of birds (for example, a “three-cock derby” or a “five-cock derby”) and to pay an entrance fee. Hack fights are daylong events with a single cockfighting ring or “pit.” Each participant brings the birds he hopes to fight that day and seeks matches for them at the event. The “House” sets a minimum bet for fighters and takes a small cut, around 10 percent. The winner keeps both fighters’ bets, minus the House’s cut, and fighters sometimes make larger “side” bets in addition. Hack fights are the best-known and best-attended type of fight on the island. “Sparring matches” comprise a sort of unofficial fourth category; these are practice fights in which roosters’ spurs are covered with rubber “boxing gloves” so that they cannot physically harm one another. Most fighters spar their birds as part of the roosters’ training.

During my research, I witnessed scores of fights and hundreds of individual matches. I spoke informally with spectators and fighters at hack fights, backyard fights, and sparring sessions.³³ Though it was unusual for someone both white and female to attend the fights, I quickly became known as a regular, enabling me to observe interactions without drawing attention. I accepted all of the invitations I received to attend backyard and sparring matches in addition to hack fights. The informal atmosphere of backyard fights and sparring matches offered hours of observation and informal discussion.³⁴

I also spent hundreds of hours with fighters outside of the fights, going to bars, restaurants, corner stores, fighters’ homes and farms, and other locations they frequented. I spent time with fighters’ friends and family members—for example, accompanying a fighter’s aunt and mother to a shopping mall and attending a baby shower for a fighter’s wife. I took extensive field notes at my earliest opportunity after (and when possible, during) cockfights, conversations, and other interactions. Usually I made jottings in the field and then typed these into detailed notes at a private location later the same day.

by creating a ‘least-gendered identity,’ positioning [her]self as a woman who possessed masculine cultural capital. [She] carefully crafted [her] identity and interactional style to show that [she] was a woman who knew about ‘guy’ topics . . .” This strategy allowed her a “liminal stance” that yielded information without challenging boys’ masculine identities. *Id.* I, too, avoided challenging men’s gender identities or gender beliefs in the field. If a fighter said something like, “Women hate violence,” I neither endorsed nor refuted the statement.

33. No derbies occurred on Moa during the time I was there.

34. Some of the “backyards” were farms with over one hundred roosters and an elaborate “practice pit” that resembled the pit at the hack fights. Other backyards were more like Vincent’s, with twenty or thirty birds in pens, plus a small dirt area for sparring sessions.

In addition to my data collection as a participant-observer, I conducted twenty-three in-depth, semistructured interviews,³⁵ mostly of men who both bred and fought roosters, or had actively done both in the past.³⁶ I focused on breeder-fighters because they were the most deeply involved in cockfighting and risked the most, legally and financially. I approached a few subjects by striking up conversations at the fights, but primarily used snowball sampling, locating informants through the recommendations of other subjects—an effective method in populations that are difficult or impossible to reach via random sampling.³⁷ I began with Vincent’s friends³⁸ and eventually gained entrée, of varying levels, to seven different cockfighting gangs. Earning enough trust to access fighters in many different gangs was important because men in the same gang may share particular attitudes or experiences.

Interviewees ranged in age from their early twenties to early eighties, were racially diverse, and were employed in a variety of working-class jobs. Interviews ranged from twenty minutes to over three hours. The average interview time was one and a half hours, and the vast majority lasted between one and two hours. I used an interview schedule as a guideline, but topics and transitions tended to emerge organically, and I followed interviewees’ train of thought as much as possible, rather than imposing a particular order on the conversations.³⁹

35. See ROBERT S. WEISS, *LEARNING FROM STRANGERS: THE ART AND METHOD OF QUALITATIVE INTERVIEW STUDIES* (1995).

36. I did not interview police officers. I was unconvinced that the length of my trip would allow me adequate time to devote enough attention to both the cockfighters and the police officers. Additionally, several fighters agreed to speak with me only on the condition that I did not talk to any police officers during my visit to Moa. I also wanted to minimize the chance that I would ever be subpoenaed as a witness against my informants.

37. See Mark S. Handcock & Krista J. Gile, *Comment: On the Concept of Snowball Sampling*, 41 *SOC. METHODOLOGY* 367 (2011).

38. Since they stood to lose a great deal if I turned out to be a police officer, many fighters were reluctant to speak with me. Interviewees received no monetary compensation for participation, which was a decision I made after initial conversations with Vincent and a few other fighters. They told me that many fighters would find it “insulting” to be offered money for their time, since they were “working men” and could afford to have a conversation with someone without being compensated for it. As a gesture of thanks, I occasionally bought interviewees a small snack, such as a donut and coffee, to enjoy while we talked. For a few of the older subjects whom I interviewed at home, I brought food to their house, such as Saloon Pilot crackers and guava jam. I did not do this as “compensation,” but because some local residents view it as a show of respect to bring older people something to enjoy if you visit their homes.

39. To give readers a sense of the kind of questions I asked, I reproduce a handful below:

- How did you first get into fighting birds?
- Can you tell me a story about an especially memorable fight?
- I’ve heard some guys talk about their “gangs.” What does this mean?
- What kinds of people come to the fights?
- Who wants to ban rooster fighting? Why do they want to ban it?

C. Coding Field Notes and Interviews

The raw data from my field notes and interviews comprised more than three hundred pages. I coded these notes thematically, using an “open coding”⁴⁰ system that used the substance of the data to generate codes. I was particularly attuned to themes related to law and legal consciousness, but I coded as inclusively as possible, noting virtually any social theme that characterized a piece of data. The point of this overinclusivity is to let the data speak for themselves, rather than superimposing the researcher’s ideas and biases. My procedures were consistent with a modified grounded theory approach.⁴¹ I used the software program Atlas.ti to manage the more than one hundred discrete codes that resulted from the initial open coding procedures.⁴²

Next, I grouped codes into “code families,” which involved grouping the codes thematically. For example, “gender” encompassed codes such as “women’s role,” “masculinity,” and “misogyny.” Some codes fell into multiple families. For example, “betting” fell under both “fighting rituals” and “economics.” I then extracted the data associated with each code family and read it as a unit, making it easier to see patterns in the data. I also employed “data triangulation,” a means of boosting reliability by comparing multiple data sources (here, interviews and observations) for conflicts and contradictions.⁴³

II.

A DESCRIPTION OF THE FIGHTS

On the western side of the island of Moa, large secret cockfights take place every Sunday on private agricultural land overlooking the ocean. The site is only accessible via a craggy, unmarked dirt road leading from the rural stretch of highway. The road wends through farmed and forested land, forking at several points, and ending at a large clearing with trucks and older model compact cars parked along the perimeter. Most Sundays, two or three hundred people are in attendance.

The cockfighting pit is the nucleus of activity. About fifteen feet square, the pit is bordered by a four-foot-high fence made from chicken wire and scrap lumber, with two openings at diagonal corners large enough for a man to walk through. In the center, a fluorescent orange square is spray-painted onto the dirt, designating the roosters’ starting lines. The bright dust clings to participants’ and spectators’ denim and shoes, and the referee and timekeeper

40. See generally BARNEY GLASER & ANSELM STRAUSS, *THE DISCOVERY OF GROUNDED THEORY: STRATEGIES FOR QUALITATIVE RESEARCH* (1999).

41. See MONICA MCDERMOTT, *WORKING-CLASS WHITE: THE MAKING AND UNMAKING OF RACE RELATIONS* (2006).

42. See ATLAS.TI, <http://www.atlasti.com/features.html> [<http://perma.cc/56Z7-HSCR>].

43. See Uwe Flick, *Triangulation Revisited: Strategy of Validation or Alternative?*, 22 J. FOR THEORY SOC. BEHAV. 175, 176 (1992); Scott Reeves et al., *Qualitative Research Methodologies: Ethnography*, 337 BRIT. MED. J. 512 (2008).

sprinkle the pit with a watering can at regular intervals to subdue the clouds of fine dirt.

Plastic chairs surround the pit in neat rows on all sides. Beyond them is a row of stepladders, lugged from garages, sheds, and backyards to give spectators a better view. No one bothers to keep an eye on his ladder or chairs. Others might borrow a seat for a match or two, but readily relinquish it when the owner returns. The crowd is more than nine-tenths male, ranging in age from teens to eighties. The dozen or so women are working behind concession stands or have one arm looped through the arm of a boyfriend or husband. Races and ethnicities vary, though more than a third of attendees are Filipino.

When a fight is about to begin, the crowd packs in shoulder to shoulder, surrounding the fence around the pit as seats and ladders fill. The tension is palpable. The fighters stride quickly but calmly into the pit, birds in hand, flanked by one or two friends. When they enter the ring, the betting begins. The shouting swells to a cacophony: “Give jess!⁴⁴ Take jess! Give give give give give! Take take take!” Spectators catch one another’s eyes, waving a hand toward one side of the ring to indicate whom they want to bet on and holding up their fingers to indicate the odds they want to bet. The shouting continues until the referee counts to three, whereupon the fighters set their birds on opposite sides of the spray-painted square. The crowd draws in a collective breath against the flapping of wings and—for just a moment—falls silent.

Each rooster has a sharp, three-inch steel knife affixed to its left foot, replacing the bird’s blunter natural spur and rendering its instinctual fighting kicks deadly. As the birds fly at each other, the crowd yells encouragement at the roosters (“Atta boy! Stick him!”) or the fighters (“Take care [of] your bird! Rub its chest!”). Each time a bird is pinned to the ground, the men separate the roosters, then wait for the referee’s count before setting them down opposite each other again. These steps are repeated until, eventually, one bird loses the strength even to peck feebly at his opponent and falls into the blood-soaked dust. Fights are to the death.⁴⁵

Despite the fights’ secrecy, their existence and location are known to law enforcement. An arrest typically occurs at about the same time each week. At the conclusion of one fight in the late morning or early afternoon each Sunday, one or two plainclothes officers slip quietly into the ring, inform the fighters that they are under arrest, and walk them back along the dirt road. The unlucky pair is then driven to the police station, charged with misdemeanors, and fined.

44. “Giving jess” means that you will bet one hundred dollars to someone else’s eighty dollars; if the bird you choose wins, you get eighty dollars, and if the bird you choose loses, they get one hundred dollars. The person betting one hundred dollars gets to choose the bird, although the other person does not have to accept if they do not want to bet against that bird.

45. The fights have a ten-minute time limit, and a draw is called if both roosters are still alive at the conclusion of this period, but draws are rare, and many fights last only two or three minutes.

Most fighters I interviewed had been arrested for cockfighting misdemeanors multiple times. Few had been arrested in any other context.

Not long after the police leave, the fights resume, and law enforcement does not typically reappear until the following week. I discuss the arrest patterns and the cockfighters' responses in a separate article.⁴⁶ Here, it is simply worth noting the pattern and pointing out that from an outsider's point of view, the enforcement appears rather lax—apparently intended to regulate or monitor the hack fights rather than to shut them down.⁴⁷

III.

THE SOCIOLEGAL CONTEXT OF “LOCAL” LIFE

On Moa, being *local*, or being *a local*, is defined as having lived on the island one's entire life, especially from birth through high school. Even people who moved from the mainland as young children are not necessarily considered “locals.”⁴⁸ Local identity is associated with attributes such as being laid-back and easygoing, eating particular kinds of food, holding a working-class job, and speaking Hawaiian Pidgin English, or “Pidgin,” a Creole language.⁴⁹ In contrast to the low amount of overt racial animus (as I will discuss *infra*), the local-nonlocal division was extremely pronounced. In this Section, I discuss the contours of local identity and the importance of local identity in the context of other changes to the island. I devote an entire section to local identity because it is the crux of Hawaiian cockfighting's modern meaning for those who participate. Thus, while this Section may first seem somewhat of a departure, it provides essential background for returning to the cockfights in Parts IV and V.

46. Kathryn M. Young, *Everyone Knows the Game: Legal Consciousness in the Hawaiian Cockfight*, 48 LAW & SOC'Y REV. 499 (2014).

47. There was one notable exception to this pattern. A few years before my research trip, there was a large-scale cockfighting “bust” for the first time in Moa's history. Dozens of men were arrested and charged with felonies—a practice unheard of on the island. Stories about the motivation for the bust vary, but center on police corruption, local politics, and a desire to drive out some of the more successful fighters. I discuss the effects of the big bust on the arrested fighters, and particularly the bust's implications for the legitimacy of legal authority in the fighters' eyes, in *id.*, *supra* note 46.

48. This was underscored when I asked Seth, a cockfighter in his early twenties, whether he was born on Moa. He answered, “I've lived here my whole life.” Sensing his hesitation but unaware that he would have any reason to dodge the question, I asked, “But not born here?” Seth sheepishly told me that he was born in California while his parents were on vacation and had returned to Hawaii when he was a few days old. Two of Seth's closest friends were present at the interview and were surprised to hear this. They jokingly chided Seth for not being a “real Hawaiian.” Seth asked them not to mention his birthplace to anyone else, and both promised they would not. Men like Vincent, who were born and raised on Moa, then moved elsewhere for a number of years before returning, are considered locals.

49. Jonathan Y. Okamura, *Aloha Kanaka Me Ke Aloha 'Aina: Local Culture and Society in Hawaii*, 7 AMERASIA J. 119, 124 (1980); Suzanne Romaine, *Hawai'i Creole English as a Literary Language*, 23 LANGUAGE SOC'Y 527 (1994).

A. *Race, Class, and the Meaning of Local*

Hawaii's unique economic and social history, as well as its physical isolation, sets it apart from other states. More than three-quarters of Hawaii's population comprises racial minorities.⁵⁰ In 2012, state residents who identified solely as Asian or Pacific Islander (not in combination with another race) accounted for 38.3 percent, compared to just 5.1 percent in the United States as a whole,⁵¹ and more than 50 percent of Hawaii's residents identified as at least partly Asian.⁵² Put differently, Hawaii has more than four times as many Asian or part-Asian residents, by percentage, than any other state.⁵³ Nearly one in four Hawaii residents identifies as mixed-race,⁵⁴ and sums of the other racial identifications suggest that the actual number of mixed-race residents is probably higher. Also, some groups considered "white" by the census do not identify as white in their everyday lives. In particular, people of Portuguese descent who live in Hawaii tend to identify and be identified by others as a group distinct from whites.⁵⁵

Overt racial strife in Hawaii appears less prevalent than in many other parts of the United States.⁵⁶ This bore out in my own observations and was also mentioned by several interviewees, for whom Hawaii's lack of racial tension (as they perceived it) was a source of pride. For example, Greg, a half-Japanese, half-Filipino cockfighter in his early forties told me that Moa's diversity was what made it "so amazing." When I asked what he meant, he pointed to me, to his friend Paleki, and then to himself, saying that the three of us had different ethnic backgrounds but could understand each other.⁵⁷ Pat, the head of the House, who ran the weekly hack fights, recalled his visits to North Carolina and Texas to participate in derbies. He described being aghast at southern race relations and reported that in Texas, he and another Filipino male

50. To be precise, 77.2 percent. The U.S. Census Bureau defines "minority" as a person who identifies his or her race and ethnicity as something other than non-Hispanic white, not in combination with any other race. *Hawaii Population Characteristics 2012*, HAW. ST. DEP'T BUS., ECON. DEV. & TOURISM, http://files.hawaii.gov/dbedt/census/popestimate/2012_county_char_hi_file/Pop_char_hi_2012_final.pdf [<http://perma.cc/5UV2-QUFU>].

51. *QuickFacts: Hawaii*, U.S. CENSUS BUREAU, <http://quickfacts.census.gov/qfd/states/15000.html> [<http://perma.cc/67YA-UWJH>] (last visited Sept. 6, 2016).

52. *Hawaii Population Characteristics 2011*, HAW. REP. (May 17, 2012), <http://www.hawaiiireporter.com/hawaii-population-characteristics-2011/123> [<http://perma.cc/CQK3-RW95>].

53. *Percent Asian Ranking, 2000*, CENSUSSCOPE, http://www.censusscope.org/us/rank_race_asian.html [<http://perma.cc/3HKA-UAQX>] (last visited Sept. 6, 2016).

54. Chad Blair, *Fun Fact: Hawaii Tops for Most People Reporting Mixed Race*, HONOLULU CIV. BEAT (Mar. 22, 2014), <http://www.civilbeat.com/2014/03/fun-fact-hawaii-tops-for-most-people-reporting-mixed> [<http://perma.cc/8K98-ETR6>].

55. See generally Michael G. Weinstein et al., *The Portuguese and Haoles of Hawaii*, 55 AM. SOC. REV. 305 (1990).

56. See Moon-Kie Jung, *No Whites, No Asians: Race, Marxism, and Hawai'i's Preemergent Working Class*, 23 SOC. SCI. HIST. 357 (1999).

57. Interview with Greg, in Moa, Haw. (June 21, 2007).

friend were harassed when they went to dinner with a white female friend. In Hawaii, Pat said, he had never encountered this kind of open racism.⁵⁸

I do not mean to suggest that race is absent from locals' consciousness. Mentions of race—and even *jokes* about race—were common but apparently devoid of animus (and usually told in mixed-race groups), in stark contrast to the same behavior on the mainland. Because of self-censorship to meet social expectations, people tend to be less forthcoming about negative racial attitudes in interview settings than in everyday interactions, which I suspected would be the case on Mōa. But to my surprise, Greg's and Pat's descriptions were consistent with my observations of the lack of overt racial strife,⁵⁹ whether I socialized in mixed-race or all-white groups of locals. It also held true in a variety of settings.⁶⁰ This is consistent with Glen Grant and Dennis M. Ogawa's observation that in Hawaii, there is a widely voiced sentiment that all racial and ethnic groups "belong."⁶¹

Locals referred to themselves as "the ethnic people" or "the local people." This was true even of locals who were, by all appearances, white. White skin presumptively flagged a person as nonlocal, but use of Pidgin counters this presumption. The white locals I interviewed did not identify as "white," nor did other locals consider them white; their local identity trumped their racial identity.⁶² When locals (of any ethnicity) talked about "whites," they meant

58. He said, "I never knew till I went to [the South] that some people are still uncivilized. . . . [In Hawaii] you appreciate everybody." Interview with Pat, in Mōa, Haw. (June 22, 2007); *see also* Jung, *supra* note 56. Interestingly, even in regions of the United States fraught with racial strife, some ethnographic evidence suggests that race is less salient in the cockfighting context. Marko Maunula, *Of Chickens and Men: Cockfighting and Equality in the South*, 13 S. CULTURES 76 (2007).

59. The only exception was Tad, a local Puerto Rican man in his early seventies. He said he did not like the Portuguese, because they are lazy and "expect handouts." At the time I spoke with him, Tad had been happily married to a Portuguese woman for several decades. Conversation with Tad, in Mōa, Haw. (June 1, 2007).

60. For example, other settings include family gatherings, watching fights at a local bar, at the grocery store, and at the cockfights. The nonlocals I encountered did not always follow this pattern. Although I spent only a small percentage of my time with nonlocals, I heard a handful of negative racial comments, typically directed toward Asians. When I told Joe, a white nonlocal and fifty-year-old restaurant employee, the name of the town where I was staying and asked what there was to do there, he told me that I might want to go to a different town to meet people. "The thing you've got to remember about [that town] is, it's almost a hundred percent Asian now. And the bar scene reflects that. So, you know . . ." Joe looked at me meaningfully but stopped midsentence when I did not return his look. My interpretation of Joe's comment was that he assumed that as a white woman, I would not be interested in meeting Asian men. Conversation with Joe, in Mōa, Haw. (May 26, 2007).

61. Glen Grant & Dennis M. Ogawa, *Living Proof: Is Hawaii the Answer?*, 530 ANNALS AM. ACAD. POL. & SOC. SCI. 137 (1993). Of course, I am not suggesting that racism does not exist in Hawaii, merely that race relations in Hawaii look very different from those in the rest of the United States. The story is, of course, much more complicated. *See, e.g.*, Shelley Sang-Hee Lee & Rick Baldoz, "A Fascinating Interracial Experiment Station": *Remapping the Orient-Occident Divide in Hawai'i*, 49 AM. STUD. 87 (2008).

62. At one point, Vincent told me, "White people are very aggressive." I pointed out that Vincent himself was white (half Portuguese and half mixed western European heritage). He considered this, then said, "I'm white, but my heart was molded in the ethnic way." I asked him what "the ethnic way" meant, and he said it meant "the local way." Interview with Vincent, in Mōa, Haw.

whites from the mainland.⁶³ That is, “white” was generally used to refer to all whites *except* local whites. The term “Haole” was used more generally to denote nonlocal status. Most often, the term referred to nonlocal whites, but was also sometimes used to refer to all mainlanders, or even to nonlocals from other countries.⁶⁴

Locals viewed the local-nonlocal division as much more volatile than racial divisions. One of the ways this division manifested was in dating and marriage patterns. Several of my interviewees were dating, married to, or had children by a person of another race. However, I encountered only one romantic pairing between a local and a nonlocal.

In interviews, locals of all ethnicities talked openly about the social and cultural split between locals and nonlocals. Lucas told me that this was the “main” dividing line in Hawaii.⁶⁵ Dennis, a Filipino cockfighter in his midsixties, said that although he knew there was “good and bad” in every race, he had “a lot of dislike for the tourists [and] for the Haoles . . . they don’t respect other people . . . they don’t have any courtesy.”⁶⁶ Ernie, another cockfighter, said that Haoles “think that they’re superior to the locals . . . they look down on us.”⁶⁷ Locals rarely voiced these kinds of sentiments when nonlocals were present.

B. Economic and Demographic Changes to Local Life

In recent decades, Hawaii has undergone a growth surge.⁶⁸ From 2000 to 2005, the state’s population rose by over 5 percent,⁶⁹ a striking number given

(June 2, 2007). I had a similar encounter with Lou Ramey, a white man in his mid-sixties (and to my knowledge, the only cockfighter on Moa who had graduated from college). Lou was born in Hawaii but moved to the mainland at ten. As a child, he felt “nervous” around so many whites on the mainland and never grew accustomed to it. After graduating from medical school, Lou moved back to Hawaii and had worked as a podiatrist in Moa ever since. Unlike other fighters I interviewed, Lou had close local and nonlocal friends. The latter group, he told me, was perplexed by his involvement in cockfighting and regularly asked what it was like to be the only white person there. But Lou said that he did not “feel white,” and instead considered himself “local.”

63. Since I am white and from the mainland, I expected locals to minimize antiwhite comments around me. Perhaps they did, but such comments were still common, in everyday conversation as well as in interviews. On a few occasions, the speaker glanced in my direction and apologized. I assured him that I was not offended, and he would continue. Mentioning that I was Portuguese put the speaker at ease, presumably since Portuguese is not considered “white” in Hawaii. My affiliation with Vincent and the nature of my visit also set me apart from other nonlocals.

64. James A. Geschwender et al., *The Portuguese and Haoles of Hawaii: Implications for the Origins of Ethnicity*, 53 AM. SOC. REV. 515 (1988).

65. Interview with Lucas, in Moa, Haw. (June 15, 2007).

66. Interview with Dennis, in Moa, Haw. (June 9, 2007).

67. Interview with Ernie, in Moa, Haw. (June 7, 2007).

68. Penelope Canan & Michael Hennessy, *The Growth Machine, Tourism, and the Selling of Culture*, 32 SOC. PERSP. 227 (1989).

69. *QuickFacts from the US Census Bureau: Hawaii*, INFOPLEASE, <http://www.infoplease.com/us/census/data/hawaii> [<http://perma.cc/6T56-2WMT>].

the mass out-migration of longtime Hawaii residents.⁷⁰ For example, from 1995 to 2000, Hawaii's out-migration was higher than that of any other state,⁷¹ primarily due to the cost of living and housing prices that drove locals to the mainland.⁷²

The state's shifting composition manifests in a number of ways—for example, although Pidgin English was once the dominant mode of communication in Hawaii, as of the mid-1990s, fewer than half of Hawaii's residents spoke it.⁷³

Moa locals lament that young, working-class people who grow up on the island cannot afford to buy homes there. Recent high school graduates often live with their parents for years, and may do so even after marriage, moving a new spouse into an in-law unit or spare bedroom, or sharing the cost of a small addition to their parents' house. I asked Heather, who lived with her husband on his grandfather's land, how Moa had changed over the past ten years. In response, she opened the regional newspaper sitting on the table between us and began flipping through the real estate listings. Pointing out a modest two-bedroom home selling for \$680,000, she explained that it was not even in a desirable area. I asked, "Who buys these houses?" She looked at me incredulously and replied, "Not locals!" She went on to detail the limited affordable housing options available to longtime residents of Moa.⁷⁴

Heather's comments also highlight the importance of socioeconomic status as one of the perceived divisions between locals and nonlocals.⁷⁵ Her point of view echoes a sentiment I heard often: the idea that locals are being "priced out." Hawaii continues to draw people from the mainland United States and elsewhere who buy houses as a primary residence, a second home, or an

70. See Rona T. Halualani, *Discover More: Aloha on the Mainland*, PBS (Aug. 5, 2003), http://www.pbs.org/pov/americanaloha/special_aloha.php [<http://perma.cc/2856-XHSS>]. Additionally, in-migration from foreign countries to Hawaii increases annually. *County Population Facts for the State of Hawaii*, HAWAII.GOV, http://files.hawaii.gov/dbedt/census/popestimate/2014-county-population-hawaii/County_Pop_Fact_2014_Final.pdf [<https://perma.cc/H9A8-B4MN>].

71. MARC J. PERRY & JASON P. SCHACHTER, U.S. CENSUS BUREAU, *MIGRATION OF NATIVES AND THE FOREIGN BORN: 1995-2000*, at 5 (2003), <http://www.census.gov/prod/2003pubs/censr-11.pdf> [<http://perma.cc/VTC5-DB5J>].

72. For coverage in Hawaii's press, see, for example, *Out Migration*, MAUI ECON. DEV. BOARD (June 17, 2010), <http://www.focusmauiui.com/?p=200> [<http://perma.cc/75ZS-ZYLB>]; *Hawaii: Leaving Home Is an Economic Indicator*, reprinted in Andrew Walden, *January 16, 2010 News Read*, HAW. FREE PRESS (Jan. 16, 2010), <http://www.hawaiifreepress.com/ArticlesDailyNews/tabid/65/ID/1563/January-16-2010-News-Read.aspx> [<http://perma.cc/6TNP-W9HS>].

73. Alia Wong, *De-Stigmatizing Hawaii's Creole Language*, ATLANTIC (Nov. 20, 2015), <http://www.theatlantic.com/education/archive/2015/11/hawaiian-pidgin-recognized/416883> [<https://perma.cc/E242-MQEN>]; see also Eileen H. Tamura, *Power, Status, and Hawai'i Creole English: An Example of Linguistic Intolerance in American History*, 65 PAC. HIST. REV. 431 (1996).

74. Interview with Heather, in Moa, Haw. (June 19, 2007).

75. This class difference may be one reason for some locals' antipathy toward nonlocals' presence. Some locals perceive that nonlocals' presence harms their economic situation. Similar competition is not believed to exist between other groups in Hawaii, such as different racial groups.

investment property.⁷⁶ Much of the new building takes place on land previously used for farming. Fred told me, “They’re squeezing ag[ricultural] land out . . . Everything is houses looking every one just like the other one.”⁷⁷

Locals’ consternation with Moa’s development is partly, but not strictly, an economic concern. It is not simply that many locals find it unaffordable to live on their home island. As they see it, their very *way of life*, including traits and habits associated with localism (such as being laid-back, embracing diversity, or sharing food with neighbors), is being replaced by a lifestyle that contradicts their values.⁷⁸ Of course, population growth and change are not unique to Hawaii, but locals express more vehement (though less politically organized) opposition to growth than is often seen on the mainland.

Also telling is locals’ use of the term “states” to describe the mainland—for example, “My son went to college in the states.” Though Hawaii *is*, of course, part of the United States, locals view the islands as culturally distinct from the mainland. Locals often refer to the Hawaiian or local “lifestyle,” as opposed to the more formal, faster-paced mainland life. While Paleki and I were talking outside, he pointed across the street to a man in a suit and laughed, saying, “It’s like that guy in a suit over there. What the hell is he doing in a *suit*?”⁷⁹ For Paleki, wearing a suit typified the stodginess and wealth consciousness often seen in Haoles. Other locals emphasized that they did not mind the influx itself, but disliked that newcomers did not adjust to local life. Pat said that when a person moves to a new place, “You have to be accustomed to the way people live—you have to do the adjustment . . . They’re telling you how to live your life. . . . We’re used to living laid back. Let it be.”⁸⁰

76. For another example and discussion of the phenomenon of rural gentrification (in Gallatin County, Montana), see Lisa R. Pruitt, *Spatial Inequality as Constitutional Infirmity: Equal Protection, Child Poverty and Place*, 71 MONT. L. REV. 1, 56–61 (2010). See also Patrick J. Skelley, *Defending the Frontier (Again): Rural Communities, Leap-Frog Development, and Reverse Exclusionary Zoning*, 16 VA. ENVTL. L.J. 273, 286–88 (1997) (discussing social class and cultural implications of “leap-frog development” in rural areas).

77. Interview with Fred, in Moa, Haw. (June 15, 2007).

78. As Greg told me, “The local people are becoming the minority. . . . We feel different now, all of a sudden.” Interview with Greg, *supra* note 57. Other locals also expressed concern over being outnumbered by newcomers. Rick told me, “Local people is now the minority. It’s completely turned around in thirty years.” Interview with Rick, in Moa, Haw. (June 8, 2007). The fact that this encroachment is divorced from race is underscored by the fact that Rick himself is white.

79. Interview with Paleki, in Moa, Haw. (June 21, 2007).

80. Interview with Pat, *supra* note 58. Although Hawaii draws plenty of tourists, none of the cockfighters I interviewed, nor other locals I spoke to, seemed particularly concerned about their presence. Indeed, some locals even said that they enjoyed sharing the island’s beauty with visitors. I suspect there are at least two reasons for this lack of animosity toward tourists. For one, since people who open resorts and other high-end businesses that cater mainly to tourists are typically residents who are *not* locals, tourists may be seen as the but-for result of the resident nonlocals’ presence. For another, tourists’ stays are only short-term. This was reiterated by one piece of graffiti I read in a women’s bathroom in an upscale, tourist-targeted shopping center: “Welcome to [Moa]. NOW GO HOME.”

Another fighter, Juan, told me about a man who bought a large parcel of land near him to construct apartment buildings. “It’s just sickening how all the land could be bought like that,” he said.⁸¹ Abraham told me that whenever he saw someone build, he thought, “Don’t do that in our house, brah—do that where *you* are.” He stressed that he wanted people to accept the island as it was, or not to move there at all.⁸²

It is difficult to convey in writing the emotional intensity of these conversations. The fighters’ voices would grow louder when they talked about nonlocals moving in, and locals would sometimes shake their heads or clench their teeth to express their frustration. Representative quotes included:

*If I move to the mainland, I’m going to adapt to what the people do there. But they come here . . . they try to change your life, the life of the people living there.*⁸³

*They want to change the whole culture. If you want to come here, embrace the culture.*⁸⁴

*I just think they should leave [Moa] how it is—more laid back.*⁸⁵

*Now they like change everything. They know what they buying into, then when they do buy it, they try to change everything.*⁸⁶

*[Haoles] come from the mainland and try to change our way of life.*⁸⁷

Finally, fighters often discussed one other genre of change: legal regulation of local traditions and pastimes, particularly environmental laws that affected how and where locals could carry out activities in the natural environment. Norbert said, “People come over here and start changing laws. It’s gonna be like *California*.”⁸⁸

Beach access was one central concern. Rick told me that when he was growing up forty years earlier, locals would start fights with nonlocals if they came to certain beaches. But not only were locals-only beaches a thing of the past, but de facto nonlocals-only beaches were becoming more prevalent.⁸⁹ Now, fighters reported, accessing beaches had become increasingly difficult. Ernie told me, “It used to be that you could drive all the way up to the beach. [Now] it’s all [private] property.”⁹⁰ He explained that people who own beachfront property were only supposed to own it up to the high tide mark but that many people thought they owned a little more and acted as though they

81. Interview with Juan, in Moa, Haw. (June 9, 2007).

82. Interview with Abraham, in Moa, Haw. (June 9, 2007).

83. Interview with Fred, *supra* note 77.

84. Interview with Greg, *supra* note 57.

85. Interview with Norbert, in Moa, Haw. (June 13, 2007).

86. Interview with Lucas, *supra* note 65.

87. Interview with Ernie, *supra* note 67.

88. Interview with Norbert, *supra* note 85. In Norbert’s eyes, similarity to California, which he associated with overpopulation and overregulation, would be a negative development.

89. Interview with Rick, *supra* note 78.

90. Interview with Ernie, *supra* note 67.

owned a *lot* more. Fred said that hotels have sprung up along the choicest beaches, making them more crowded and harder to visit.⁹¹

Other locals mentioned increased regulation of favorite pastimes, most notably fishing and hunting. Several times in casual conversation, Vincent lamented that the land where he used to hunt deer and wild goats had been turned into private ranches where hunting was prohibited. Some locals, he said, went to private ranches at night and poached illegally because there were few other places to hunt. Ernie said that his two favorite local spots to catch squid were now overrun by windsurfers. Additionally, he told me, government authorities got mad about net fishing—the method Ernie previously used to catch squid and turtles. Sea turtles are a “CITES⁹² I Endangered Species,” and it is illegal to catch or kill them.⁹³ “Before, the turtles was one of our staples,”⁹⁴ Ernie said.

For Ernie, Vincent, and several other fighters, part of local identity was a connection with the *aina*, or land, which included self-sustainability—the ability to live off of the land, eating Hawaii’s plentiful fauna and flora. They viewed environmental laws and regulations as creating a barrier between locals and the land, and thus as threatening local culture itself. As I will elaborate in the Sections that follow, these perceived threats to local identity are the key to understanding the Hawaiian cockfights.

IV.

CRIMINALITY AS IDENTITY

A. The Close Association Between Cockfighting and Localism

Not all local men participate in cockfights, but all men who participate in cockfights are locals. On Moa, cockfighting is considered a quintessential local activity. While other favorite activities, such as fishing and surfing, are popular among tourists and nonlocals as well, cockfighting is perhaps the sole pastime that has completely retained its local status. Hack fights are one of the few places locals can go and realistically expect to associate with a large group that comprises only other locals.⁹⁵

91. Interview with Fred, *supra* note 77.

92. Convention on International Trade in Endangered Species.

93. Chris Wold, *The Status of Sea Turtles Under International Environmental Law and International Environmental Agreements*, 5 J. INT’L WILDLIFE L. & POL’Y 11 (2002).

94. Interview with Ernie, *supra* note 67.

95. This was confirmed by my observations and interviews; fighters told me unequivocally that they “never” saw nonlocals at the hack fights. Even Moa’s nonlocal residents (those who were aware of cockfighting at all) recognized it as a “locals-only” activity. When I asked Joe, a white restaurant manager who had moved to Moa from New York City five years earlier, if crime was a problem, he told me the only thing to worry about was the “locals” in the “wilderness areas.” I asked specifically if he was talking about cockfighting, and Joe said that it was none of his business: the locals put up with “us” (nonlocals) all the time and gathered in the forests to have some time to themselves. He warned me to stay away from these gatherings, explaining that I could be in danger

Cockfighters repeatedly described cockfighting as part of the “culture.” “Culture” was used in this context as shorthand for describing anything traditionally local. Greg explained that “[cockfighting] is a culture thing. We take the time to go far, far away—to hide ourselves out.”⁹⁶ Seth told me, “It’s a cultural thing. It’s for families to get together.”⁹⁷ Paleki described cockfighting as “a cultural experience.”⁹⁸ Geraldine, a Filipino woman in her late sixties who comes to the fights to support her son and bet on his birds, told me, “You can’t get more local” than a cockfight.⁹⁹ Rick said that “99.9 percent” of the people at the hack fights were from Hawaii, nearly all from Moa.¹⁰⁰ These opinions were consistent with other interviewees’ descriptions, as well as with my own observations.¹⁰¹

Expressions of local pride at the fights were sometimes intertwined with expressions of working-class pride. Popular t-shirts and bumper stickers at the fights bore slogans such as “Country Built,” “This Ain’t the Mainland,” “[Mo] Built,” “Powered by Poi,”¹⁰² “Backyard rootz,” “Localism,” “Keep it Hawaiian,” and “Respect the Culture.” Roughly one in ten attendees at the fights wore at least one piece of clothing, or a tattoo, that indicated their local identity. These expressions of local identity were not as prevalent in any other setting I encountered.¹⁰³ Many other attendees wore clothing or had tattoos relating to roosters or cockfighting, and much of this apparel incorporated local identity as well. For example, one popular slogan was “Feel da steel.” “Steel” is a reference to the steel knives used in cockfighting. The use of “da” rather than “the” is a use of Hawaiian Pidgin English.

Oral use of Pidgin was standard at the fights. Speaking Pidgin is a way locals identify each other in mixed local-nonlocal settings. Some locals “code-switch,”¹⁰⁴ using varying degrees of Pidgin words, or varying the strength of

because the locals would not want me there. I came away with the impression that Joe was warning me away from the cockfights because of my nonlocal status. Conversation with Joe, *supra* note 60.

96. Interview with Greg, *supra* note 57.

97. Interview with Seth, in Moa, Haw. (June 9, 2007).

98. Interview with Paleki, *supra* note 79.

99. Interview with Geraldine, in Moa, Haw. (June 10, 2007).

100. Interview with Rick, *supra* note 78.

101. Even the concessions sold at the hack fights reflected the events’ local character. These included “pupus” (local snacks), such as dried squid, pickled mango, and li hing mui (dried plum covered in a red powder made from salt, sugar, and licorice).

102. Poi is a traditional Hawaiian food made from taro root. It is tangy, purple in color, and usually the consistency of cake batter or wallpaper paste. It is sometimes eaten by locals in place of rice. Typically, poi is thought of as a food that only locals enjoy. See Amy B. H. Greenwell, *Taro— with Special Reference to Its Culture and Uses in Hawaii*, 1 ECON. BOTANY 276 (1947), <http://link.springer.com/article/10.1007/BF02858572#page-1>.

103. Naturally, I did encounter other mostly-locals settings. Certain churches, markets, diners, and so on cater predominantly to locals. But the secrecy of the cockfights set them apart. It was virtually guaranteed that a nonlocal would never stumble in, even accidentally.

104. See CODE-SWITCHING IN CONVERSATION: LANGUAGE, INTERACTION AND IDENTITY (Peter Auer ed., 1999); John J. Gumperz, *The Sociolinguistic Significance of Conversational Code-Switching*, 8 RELC J. 1, 1 (1977).

their accents, at different times. For example, Vincent, Rhett, and Ernie spoke with Pidgin accents and used Pidgin terms while sitting in the camp, but switched to extremely thick Pidgin when they placed bets. When I interviewed them, Vincent and Rhett spoke with lighter accents than in the camps and used fewer Pidgin terms.

Typically, when two locals met at the cockfights for the first time, they would search for a mutual connection. One person would ask the other his last name, what high school he went to, or where he lived. After finding a commonality, they fleshed it out; if they attended the same high school, they would find out each other's graduation years and see if they had friends in common. While doing this, they would communicate in thick Pidgin. This attempt to establish a connection upon meeting someone new was another way of creating common ground and reinforcing their shared identity.

The fights' attendance also reflected the social class divide between locals and nonlocals. When I asked attendees what kinds of people would never come to the fights, Dennis told me, "doctors and lawyers,"¹⁰⁵ and Rick replied, "Haoles."¹⁰⁶ Vincent said, "It's all working people . . . Not too many wealthy people fighting roosters, like a doctor, a lawyer."¹⁰⁷ Indeed, even though Lou was a local, his work as a podiatrist set him apart. On a few occasions, I heard spectators whispering about Lou to one another, surprised there was a doctor in the crowd. It was unusual for someone of high socioeconomic status, or even someone who had a college education at all, to attend the hack fights.

The class divide was sometimes coded in terms of "city" and "country." "Country" meant working class and local, denoting social status and a laid-back attitude rather than residence in a rural area.¹⁰⁸ "City," on the other hand, did not mean residence in an urban area but instead described a fast-paced, image-conscious sensibility thought to be characteristic of nonlocals. Whereas

105. Interview with Dennis, *supra* note 66.

106. Interview with Rick, *supra* note 78.

107. Interview with Vincent, *supra* note 62.

108. Hawaii's spatial configuration complicates the usual definitions of "urban" and "rural." For example, the Rural-Urban Continuum Codes were developed in 1974 to classify U.S. counties according to their level of rurality. *Rural-Urban Continuum Codes*, U.S. DEP'T AGRIC. ECON. RES. SERV., <http://www.ers.usda.gov/data-products/rural-urban-continuum-codes.aspx> [<http://perma.cc/3GEU-2DZJ>] (last updated May 10, 2013). The "Big Island" of Hawaii, which comprises Hawaii County, is rated "5" (about halfway on the continuum) and nonmetro, though it has a major university and a town of over forty thousand inhabitants (Hilo). Kalawao County, which comprises *part* of the small, largely undeveloped island of Molokai, has a population of ninety inhabitants and is rated a "3," meaning that it is a metro area. In Hawaii, the fact that much of the state's land is separated by water means that "rurality"—already a concept difficult to define legally and sociologically (*see, e.g.*, Debra Lyn Bassett, *The Rural Venue*, 57 ALA. L. REV. 941, 949–52 (2006); Luke A. Boso, *Urban Bias, Rural Sexual Minorities, and the Courts*, 60 UCLA L. REV. 562, 569–76 (2013))—can become even more complicated. For a more detailed breakdown of Hawaii's rural and urban spaces under several different definitions, see U.S. Dep't of Agric. Econ. Research Serv., *Hawaii*, http://www.ers.usda.gov/datafiles/Rural_Definitions/StateLevel_Maps/HI.pdf [<http://perma.cc/ET3X-HF5B>]. In using the term "rural" here, I am relying on *locals'* definition.

nonlocals and “city” people were considered self-centered, cockfighters often described other locals as guileless and altruistic.¹⁰⁹ “Country” and “city,” however, were not *always* synonymous with local and nonlocal. A friendly, welcoming cockfighter on the mainland could be “country,” and an uptight, greedy local could have a “city” mindset. The men who attended the hack fights were all “country.”¹¹⁰ But in general, rurality (whether actual or perceived), like education and socioeconomic status, was closely correlated with local identity.

B. Cockfighting as Familial Identity

In addition to viewing cockfighting as an opportunity to commune with other locals, many cockfighters saw it as a way to actively preserve local culture. This was true in two ways: they viewed cockfighting as a way to honor Hawaiian traditions generally, and understood it as a way to show respect for their families and maintain a connection to their individual pasts.

Filipino immigrants were recruited to work on Hawaii’s sugarcane plantations in the 1800s.¹¹¹ According to the fighters, cockfighting was originally brought to Hawaii from the Philippines during this time. Other ethnic groups came in overlapping waves as the need for low-cost labor expanded, particularly since labor pools quickly dried up due to harsh working conditions and the “quasi-slave contract system” under which plantation workers labored.¹¹² Japanese, Portuguese, Puerto Rican,¹¹³ and other ethnic groups performed much of the state’s agricultural labor from the late 1800s to the 1940s.¹¹⁴ Cockfighting grew more popular among the diverse ethnic groups on the plantations, becoming a common activity that the different groups of

109. For example, Greg said that there were few disputes over money at the hack fights because locals were so trustworthy. Interview with Greg, *supra* note 57. My observations bore out this lack of disputes over money at the cockfights. In the thousands of bets I saw placed and collected, I witnessed only one argument. After a match, one teenaged spectator asked another spectator how much they had agreed to bet. The other spectator quickly became angry and said loudly, “You know how much we bet, brah!” (“Brah” is a Pidgin word roughly equivalent to “man” or “bro.”) The asker was quiet for a few seconds, then handed over the money. The other spectator was still angry and told the teenager, “You’d better watch yourself.” Nearby spectators were quiet when this happened, appearing troubled and surprised. Their reactions accorded with my impression that arguments over money were rare.

110. Conversation with Ronnie, in Moa, Haw. (May 27, 2007).

111. Jung, *supra* note 56, at 365.

112. Sally Engle Merry, *The Criminalization of Everyday Life*, in EVERYDAY PRACTICES AND TROUBLE CASES 14, 31–32 (Austin Sarat et al. eds., 1998).

113. Puerto Rico also has a long cockfighting history, though none of the cockfighters or other locals with whom I spoke mentioned this heritage in connection with Hawaii’s. See *National Register of Historic Places Program*, NAT’L PARK SERV., <http://www.nps.gov/nr/feature/places/64501213.htm> [<https://perma.cc/2LFE-29NF>].

114. Merry, *supra* note 112.

workers shared. It continued to be prevalent even after many plantations closed and agricultural employment in the sugar industry declined.¹¹⁵

Many of the fighters I interviewed were not yet born during Hawaii's plantation days, but the older men remembered life in the plantation camps and told stories of cockfighting's ability to bring together agricultural laborers of different ethnicities—Japanese, Filipino, Portuguese, and others. Dennis, who grew up on a plantation, described the festive atmosphere of plantation camp cockfights as a “big party” every weekend, in which friends and families from different backgrounds came together to eat and “talk story.”¹¹⁶ His mother would prepare a stew using the roosters that were killed in fights. Everyone had a role in preparing the meal, Dennis said. His mother cooked, Dennis and the other children collected bitter melon¹¹⁷ leaves for the stew, and the older people would defeather the dead roosters.¹¹⁸

Dennis's mother also sold pupus at the cockfights. She used the proceeds to send Dennis and his siblings to Catholic school (according to Dennis, Moa's public schools are “terrible”). He told me that attending the fights as an older man allows him to recreate the atmosphere of inclusion he felt growing up on the plantation. One of Dennis's sisters, his only sibling to attend college, now opposes cockfighting. According to Dennis, this means she has forgotten her roots, since cockfighting enabled their mother to earn enough money to afford the family educational opportunities in the first place.¹¹⁹ For Dennis, his sister's rejection of cockfighting is tantamount to rejecting their family's history.

Dennis's story was not atypical. Many local men described cockfighting as a means of connecting with their pasts, and they often talked about this connection wistfully, their voices full of emotion. This was most evident in the men's stories about how cockfighting allowed them to form a connection with other (usually older male) family members. Ernie said that by mastering the

115. Lawrence W. Boyd, Jr., *The End of Hawaii's Plantations: Back to the Future?*, 544 ANNALS AM. ACAD. POL. & SOC. SCI. 96–97, 104–05 (1996). Since this article is not intended as a historical précis on cockfighting in Hawaii, I privilege *fighters'* understandings of cockfighting's history in the state, which is typically passed down orally from one generation to the next. For an examination of Hawaii's agricultural heritage, see Carol MacLennan, *The Mark of Sugar. Hawai'i's Eco-Industrial Heritage*, 29 HIST. SOC. RES. 37 (2004).

116. See Interview with Dennis, *supra* note 66.

117. Bitter melon, also known as “momordica charantia,” is a fruit that is commonly used in Asia. W. Ethan Basch et al., *Bitter Melon (Momordica Charantia): A Review of Efficacy and Safety*, 60 AM. J. HEALTH-SYS. PHARMACY 356 (2003).

118. According to several fighters, dead roosters are no longer eaten in part because some fighters inject their birds with strychnine and other substances to enhance a rooster's performance. Additionally, Vincent mentioned that although it is against the rules, some men poison the knife before a fight; even if a fighter knows his own rooster is substance-free, he needs to trust that the opponent's knife was clean, lest a poisoned knife contaminate his own rooster's meat. Other fighters simply told me that eating roosters was no longer the custom, since tenderer meat was now readily available.

119. Interview with Dennis, *supra* note 66.

Filipino betting strategies that his father had taught him,¹²⁰ he earned his father's respect.¹²¹ Cockfighters associated cockfighting with cultural or personal memories, and as they aged, the cockfights served as a way for them to keep these memories close.

Some of the older Filipino cockfighters also saw cockfighting as a way to honor the history of Filipino culture in Hawaii. Benjamin, a retired Filipino cockfighter in his eighties, told me that other ethnicities owed a lot to Filipinos because Filipinos had played a key role in Hawaii's early plantation days. Benjamin had lived in a plantation camp until he was eighteen. "You think the Haoles or the Portagees or the Japs were doing the hard work, cutting the cane at the bottom, doing the hardest work?" he asked me. "No! It's the Filipinos, and [cockfighting] was the only entertainment they had." For this reason, he said, the sport should be respected.¹²²

Although the younger fighters had not grown up on plantations, they also talked about cockfighting as a way to stay connected to their family histories and maintain local cultural traditions. Most local men had been introduced to cockfighting through a family member. For example, when Norbert was seven years old, an uncle gave him some birds to raise and care for. Norbert began sparring them and soon became hooked. His generation was his family's fifth to raise and fight roosters.¹²³ Boys are introduced to cockfighting at a young age. Some are given responsibilities, such as feeding and caring for roosters. Others attend hack fights with fathers, grandfathers, or uncles. At one hack fight, an elderly man asked his young grandson, "Did you bring chickens? Where's your chickens?" The man's tone was joking, but the implication was clear: if the child were old enough, he *would* have brought birds to fight.¹²⁴

120. According to Ernie, one of the oldest fighters I interviewed, the Filipino betting strategies centered on how different stages of the moon affected chickens with particular feather and leg colors—e.g., a yellow-legged rooster is at its best when the moon is at a particular phase. Interview with Ernie, *supra* note 67. Younger fighters tended to dismiss these traditions as superstition. For example, Rhett, who was in his twenties, told me laughingly that a good rooster will win whether or not the moon is full. Interview with Rhett, in Moa, Haw. (June 21, 2007).

121. Interview with Ernie, *supra* note 67. Vincent had a similar story. His stepfather had introduced him to cockfighting at an early age, but Vincent remained a spectator during his teenage years. He subsequently moved to California at age twenty, then after a few years, began cockfighting on the mainland. He became skilled at tying knives, and when he returned to Moa, tied knives for his stepfather. The first time they went out together, father and son won six fights in a row. Vincent beamed as he told me this, and said, "Dad was so, so proud! That was really something." Conversation with Vincent, in Moa, Haw. (June 4, 2007).

122. Like Dennis, Benjamin also explained that his family had survived in part because his mother sold goat meat at the plantation fights each week. Interview with Benjamin, in Moa, Haw. (June 18, 2007).

123. Interview with Norbert, *supra* note 85. According to Seth, "The families have been around forever," and alliances and rivalries between families can last for decades. Interview with Seth, *supra* note 97.

124. Although cockfighters often expose younger boys in their family to cockfighting, it is rarely a fixed expectation that the boys will take up cockfighting. In a family, one brother may become a cockfighter and another may not. Cockfighters' discussion about this has a similar tone to men who

Some cockfighters told me that cockfighting was particularly important now, since the local culture was being drastically eroded. One afternoon, after a backyard sparring match on Fred's farm, Fred said, "A lot of the Hawaiian culture is disappearing. [Cockfighting] would be one more thing if it goes."¹²⁵ He explained that he incorporated parts of local culture into his cockfighting and showed me a rope of ti leaves that he had braided and hung on his birds' boxes, since hanging ti leaves for good luck is a Hawaiian tradition.¹²⁶

C. Cockfighting as a Maker and Marker of Status

Cockfighting offers a means through which cockfighters not only express and celebrate local pride, but also assert and affirm their identities as competent, intelligent local men. In the island's larger social structure, locals tend to be economically and educationally subordinate to nonlocals, usually subsist in working-class jobs, and experience a lack of agency in navigating official bureaucracies.¹²⁷ As locals know all too well, in the eyes of nonlocals, they are often uncultured, unintelligent, crass, or "rough around the edges." Cockfighting is valuable because it offers a means of asserting respected characteristics and a positive local identity.

Cockfighting's role as a source of status within the local community is evidenced partly by the way Moa's cockfighters talk about the aspects of cockfighting they admire and value most. Winning is neither entirely peripheral, nor central. A few fighters kept track of their wins and losses, but most did not. Certainly, no fighters were aware of *other* fighters' win-loss records. Instead, a fighter's reputation was built on being a "good rooster man," which hinged almost entirely on two aspects: the "keep" and knowledge of breeding strategies.

The term "keep" refers to all aspects of a rooster's health, including diet, training, exercise, and medical care. Fighters took pride in designing their own keep and boasted about the health of their birds. Different fighters focused on different aspects of the keep. Fred, for example, told me that he is especially proud of how healthy he keeps his birds during molting time, when chickens are susceptible to illness and fever. He described a complicated regimen of vitamins, pointing out the bottles in his homemade cabinets and explaining that he never "shot" his birds—that is, never gave them artificial supplements.¹²⁸

play baseball and hope their sons will eventually take up the sport. Having roosters is not a rite of passage for *all* local males, but is seen as an indicator of maturity and competence.

125. Interview with Fred, *supra* note 77.

126. See VAL FRIELING KROHN, HAWAII DYE PLANTS AND DYE RECIPES 91 (1980); see also *Ki*, CANOE PLANTS ANCIENT HAWAII, <http://www.canoepplants.com/ki.html> [<http://perma.cc/T532-G39L>] (last visited Sept. 6, 2016).

127. See *supra* note 75.

128. Interview with Fred, *supra* note 77.

Pat owned a large farm with more than two hundred roosters kept on string walks.¹²⁹ Each morning before feeding them, Pat spent about ten minutes with every bird he planned to fight in the next three weeks. (He typically fought three or four birds at each hack fight, so he spent about two hours exercising roosters each morning.) He designed specific exercises for each of the three weeks before a fight. When I observed that the routine seemed time consuming, Pat agreed. “It takes a lot of time. Because cockfighting is, to me, a science. Everything affects the bird. Humidity. The weather.”¹³⁰

Fighters were admired by their peers¹³¹ not for their win-loss records or the large number of roosters they owned, but for their knowledge, experience, and precision. When I mentioned to Juan that I had been to Pat’s farm for a few sparring matches, he said, “You’ve been to *Pat’s* place? Pat is the man.” I asked why Pat was the man, and Juan told me, “He just *is*, brah. He’s been doing it forever. He knows everything.”¹³²

Fighters sometimes outsourced certain tasks to specialists—for example, giving their knives to a skilled friend to sharpen, or having a more experienced member of their gang tie a knife onto a bird’s foot. However, self-sufficiency and a broad knowledge base were sources of status and pride. When I asked fighters to name their favorite part of cockfighting, they often talked about the intellectual challenges it presented and the joy they derived from performing every aspect of the preparation themselves. This was particularly so for men who bred their own birds. Indeed, the fighters who most impressed their peers

129. In a “string walk” setup, each rooster is tied with string or rope to a small “house” or “teepee,” which is made from a bent piece of corrugated metal. The string is usually four to eight feet long, allowing each rooster between forty and two hundred square feet of space. The “teepee” allows the birds to roost on top and go beneath it to get out of the rain. The string walks are spaced far enough apart to keep roosters from attacking each other.

130. Interview with Pat, *supra* note 58. Another example is Vincent, who was particularly proud of his birds’ diet and of his prefight regimen. He performed the following steps for each rooster three days before it fought (all while cradling the rooster against his chest):

- (1) Trim the bird’s nails (with a dog nail trimmer) and beaks (with a toenail clipper) if necessary. Follow any beak trimming with filing until smooth.
- (2) Clean the bird’s face and feet with witch hazel.
- (3) Squirt Vet Rx (a substance that smells like Vicks VapoRub and contains alcohol, rosemary, and camphor) into the nostrils and rub some of it on the bird’s face as well. This clears the bird’s lungs and gets oxygen flowing.
- (4) Apply baby oil to the bird’s feet and toes.
- (5) Massage the bird’s leg muscles above the knuckle where the feathers start. (Vincent only massaged his birds before a fight, though some other fighters gave their birds regular massages.)

After steps (1) through (5), Vincent would put the bird into a small cage so that it would be forced to rest. The day before the fight, instead of receiving its usual combination of mixed vegetables, grains, and cottage cheese, the bird would receive crack corn mixed with cinnamon. This is akin, Vincent said, to a marathoner “carbo-loading” before a race. The cinnamon’s purpose was to regulate the sugar intake. Conversation with Vincent, in Moa, Haw. (June 5, 2007).

131. Since I focused on cockfighters, I have little evidence about what noncockfighting locals, such as men who came to the fights simply as spectators, respected most in fighters.

132. Interview with Juan, *supra* note 81.

as “real rooster men”¹³³ tended to be the ones who bred, raised, and fought their own birds, rather than simply buying a bird raised by someone else.¹³⁴ Many fighters were proud of their breeding lines.¹³⁵

Greg, Rhett, Vincent, and Pat all used the word “science” or “scientific” to describe their interest in breeding. Greg enjoyed figuring out how to produce a rooster that encompassed the “best of both worlds”—speed and strength.¹³⁶ Rick said breeding was challenging because “you have to nick it right . . . You breed till you catch the nick.”¹³⁷ The difficulty of breeding, and the knowledge and discipline involved in learning about topics such as incubation and vaccination, made breeding a status marker among fighters. They could assert their status by sharing breeding knowledge and experience with other fighters.¹³⁸

Relatedly, self-sufficiency emerged as a common status marker. Greg said that his favorite thing about cockfighting is that “it’s an individual sport . . . There’s a couple different elements you’ve got to hit on the nose. I like the challenges it presents.”¹³⁹ Norbert said that with cockfighting, he loves that he “learns something new every day.”¹⁴⁰ Vincent said that his main goal is to be able to do every aspect of cockfighting himself—breeding, feeding, training, knife tying, and so on. I asked him why, and he replied that if this was the case, then he knew he was competing solely on his own merits. Indeed, while I stayed with him, Vincent taught himself to sharpen his own knives using a sharpening wheel he built with a washing machine motor. Rhett reported that his repeated “experimentation” had allowed him to become competent in every aspect of cockfighting.¹⁴¹

Cockfighting’s role as a marker of status and competency among local men is also demonstrated in the way fighters talk about placing bets. Betting on someone’s bird is an endorsement of the man. Ronnie explained that he did not

133. For an elaboration of the characteristics that made a person a “real rooster man,” see Young, *supra* note 46, at 517–18.

134. As Vincent told me, “When you buy roosters and fight, it’s a rewarding feeling, but not as much as if you bred and raised the roosters yourself.” Interview with Vincent, *supra* note 62.

135. Some sold roosters to other fighters, but many refused to part with their birds; they did not want to face their own hard work on the opposite side of the cockfighting pit someday.

136. Interview with Greg, *supra* note 57.

137. Interview with Rick, *supra* note 78. “Catching the nick” means finding a breeding combination that produces roosters with the desired combination of qualities. *Id.*

138. For example, it was common to overhear fighters say things along the lines of, “When you cross a hatch pumpkin with a red, you get a really good kicker,” or, “That one looks to be a quarter Kelso.” For more detailed examples of cockfighting enthusiasts’ discussion of the fighting merits of different rooster breeds, see HORST W. SCHMUDDE, *ORIENTAL GAMEFOWL* (2005); *Gamefowl Fighting Styles!*, GAMEFOWL CIR. (Feb. 4, 2014), <http://www.reach-unlimited.com/p/960084196/gamefowl-fighting-styles> [<http://perma.cc/857T-BKAJ>].

139. Interview with Greg, *supra* note 57.

140. Interview with Norbert, *supra* note 85.

141. Interview with Rhett, in Moa, Haw. (June 27, 2007).

“bet on a bird”; instead, he “bet on a guy.”¹⁴² Rick said, “You bet on someone who’s smart and raises good birds.”¹⁴³ One fighter’s betting on another is a sign of trust and respect—an acknowledgement that the bettor thinks the fighter is truly dedicated to the “keep” and smart enough to raise good birds. For this reason, few fighters bet against their friends. Indeed, betting on a friend’s bird is a way of betting on one’s *self*—on one’s own understanding of other men’s integrity and intelligence. In this way, placing a bet is a way for a man to invest in his own knowledge and understanding of the other men in the local community. If a fighter bet against a friend, it would not simply mean that he wanted the friend to lose, but would express a lack of faith in the friend’s possession of the qualities that make a good rooster man. For younger fighters, cockfighting offers an avenue for asserting their place in the local community—establishing their competence and intelligence alongside other men.¹⁴⁴

Analogous patterns of identity formation have been described in other ethnographic accounts of cockfighting. In his iconic examination of Balinese cockfights, anthropologist Clifford Geertz wrote that in Bali, cockfighting functions as a microcosm of Balinese culture.¹⁴⁵ Cockfighting offers a “sentimental education” for those who engage in it: a cockfight “provides a metasocial commentary upon the whole matter of assorting human beings into fixed hierarchical ranks and then organizing the major part of collective existence around that assortment. . . . [I]t is a Balinese reading of Balinese experience; a story they tell themselves about themselves.”¹⁴⁶ Garry Marvin echoed these observations in his study of cockfighting in Andalusia, Spain: “[Cockfighting] serves to express and reinforce men’s self-identity.”¹⁴⁷ As Geertz and Marvin describe it, cockfighting is central to the development of a masculine self. While cockfighting in Hawaii cannot be divorced from masculinity, its chief social purpose has more to do with reinforcing and expressing fighters’ identity as locals. As I will describe in the next Section, much of cockfighting’s function as a means of resisting unwanted changes is its ability to win cockfighters’ respect and acknowledgement as *local* men who are smart and competent—characteristics that, particularly as the island’s demographics shift, local men are not always perceived as embodying.

142. Conversation with Ronnie, *supra* note 110.

143. Interview with Rick, *supra* note 78.

144. Seth, the youngest fighter I interviewed, told me that his “biggest high ever” was “pitting against all the old timers.” Interview with Seth, *supra* note 97.

145. Geertz, *supra* note 10.

146. *Id.* at 448.

147. Garry Marvin, *The Cockfight in Andalusia, Spain: Images of the Truly Male*, 57 ANTHROPOLOGICAL Q. 60 (1984).

V.

CRIMINALITY AS RESISTANCE

A. *Cockfights as a Contested Space*

Formal and informal regulations related to cockfighting touch on areas of change already fraught with tension between locals and nonlocals. According to fighters, two main categories of people oppose cockfighting: animal rights activists and nonlocal residents. Animal rights activists, whom fighters usually referred to as “the animal rights people,” “the animal righteous people,” or “the Humane Society,” were assumed to act not from malevolence but from ignorance of cockfighting and local culture. Activists were seen as “soft” thinkers who had been convinced, through media anthropomorphization of animals, that animals should be treated like humans.¹⁴⁸ Cockfighters’ characterizations of animal rights advocates were similar to Loïc Wacquant’s account of boxers’ responses to the “trope of violence” invoked by outsiders when they talked about boxing: as boxers saw it, outsiders’ lack of understanding rendered them unable to see the activity’s true merits as a means of building discipline and self-respect.¹⁴⁹

The second group opposed to cockfighting, nonlocal residents of Moa, was viewed as a more serious and immediate threat. Whereas animal rights activists were thought to be motivated by ignorance, nonlocals were thought to be motivated by selfishness, a sense of superiority, and enmity toward local culture. It was not simply that the island’s wealthier newcomers did not participate in cockfighting, nor even that they looked down on it in principle. Rather, according to the cockfighters, the problem was that nonlocals actively opposed cockfighting in ways that amplified existing local-nonlocal tensions.

148. For example, Vincent told me that animal rights activists have watched “[t]oo much TV, too much ‘Lassie’ shows, too much staged programs on animals.” Interview with Vincent, *supra* note 62. Rhett explained that animal rights activists “don’t know enough about the birds [T]hey’re only hearing [one side]. If they really took the time to see the time we spend on the birds, [they would change their minds].” Interview with Rhett, *supra* note 120. Several cockfighters echoed this in interviews and in casual conversations with other cockfighters, saying that activists must know little about roosters, since they did not seem to know that roosters fight in the wild. *See also* SA Queiroz & V.U. Cromberg, *Aggressive Behavior in the Genus Gallus sp.*, 8 REVISTA BRASILEIRA DE CIÊNCIA AVÍCOLA [BRAZILIAN J. POULTRY SCI.] 1 (2006). Animal rights activists were viewed as relatively few in number, but wielding a disproportionate amount of influence due to wealth, formal education, and political power. Many cockfighters had never met anyone they considered an animal rights activist. Although one interviewee mentioned a local branch of the Humane Society, most informants understood animal rights advocates as a national group that opposed cockfighting throughout the United States, not as a Hawaii-based or Hawaii-focused group.

149. Loïc J.D. Wacquant, *The Pugilistic Point of View: How Boxers Think and Feel About Their Trade*, 24 THEORY & SOC’Y 489, 494–507 (1995).

The conflict often manifested in terms of newcomers' objections to the sound of roosters crowing.¹⁵⁰ Indeed, fighters held that nonlocals' criticism of cockfighting was just a pretext for their true desire: imposing order, silence, and other mainland or foreign values. Several cockfighters recounted interpersonal conflicts with nonlocals over keeping roosters in residential areas. For example, Lucas told me that a few years earlier, a woman from the mainland moved in next door to him. She disliked his roosters' noise and "made one big scene."¹⁵¹ Eventually, although it was a hassle for Lucas, he moved his roosters to a friend's property to avoid confrontations with the woman. Then, less than a year after she had moved to Moa, the woman moved away. Lucas told me that this was typical of Haoles; they had no genuine attachment to Hawaii. They would buy a house, fix it up, and resell it for a profit, driving up prices and making it harder for locals to afford homes.¹⁵²

According to Norbert, Vincent, Fred, and other cockfighters, crowing is a normal local sound and having dogs, cats, chickens, and other animals loose on one's property is part of locals' "laid-back" way of life.¹⁵³ Instead of adapting to this, Fred said, nonlocals brought their "city" sensibilities to Hawaii.¹⁵⁴ Norbert, Ernie, Seth, and others told stories like Lucas's about nonlocals who had moved into their neighborhoods. The "rich Haole woman" who had moved next to Seth called the city, the police, and animal control to complain about Seth's roosters. As Seth described it, "I told her, if you don't like it, go back to the mainland so you can listen to the cars and trucks." Recounting the conversation, Seth sighed weightily and shook his head, saying, "I can't handle people coming to our island, telling us what is wrong and what is right, grumbling, telling us what to do."¹⁵⁵

Ernie told me about the experience of a friend, a small-time fighter who owned only five roosters. A nonlocal moved in next door to Ernie's friend and offered him a huge sum of money for the roosters. When Ernie's friend accepted the offer, the man broke all of the roosters' necks and threw them in

150. To give the reader a sense of what the crowing was like, Vincent kept perhaps twenty roosters. They began crowing at 4:30 or 5:00 a.m., then would go quiet for an hour or so and crow again around 6:00 a.m. The crowing went on until noon but became sporadic by 9:30 a.m.

151. Interview with Lucas, *supra* note 65.

152. *Id.*

153. Cultural conflicts associated with keeping chickens on one's property are not unique to Hawaii. For example, conflicts have arisen in the American South, where white residents in areas with high Latino growth have complained about Latinos keeping chickens in their yards. Lisa R. Pruitt, *Latina/os, Locality, and Law in the Rural South*, 12 HARV. LATINO L. REV. 135, 160 (2009). And in many urban and suburban localities, the trend of keeping backyard chickens has spurred conflict between residents, or between residents and local government. Sarah B. Schindler, *Of Backyard Chickens and Front Yard Gardens*, 87 TUL. L. REV. 231, 244-46 (2012).

154. Interview with Fred, *supra* note 77.

155. Interview with Seth, *supra* note 97. Interestingly, cockfighters' sentiments about nonlocals' opposition were similar regardless of the fighters' age. Ernie, for example, was more than sixty years Seth's senior.

the trash. For Ernie, the nonlocal's willingness to spend a large amount of money simply to extinguish a valuable local commodity was tragic.¹⁵⁶

Indeed, locals believed that nonlocals' very presence—even if they voiced no opposition—threatened cockfighting, because space for keeping roosters¹⁵⁷ had grown scarcer as more housing was constructed. In the past, fighters said, they organized informal medium-sized fights on vacant land,¹⁵⁸ but hack fights were now their only real option besides their own backyards. This was particularly a problem for fighters like Lucas, Rick, and Fred, who stayed away from the hack fights because they had been arrested in the “big bust” and were still on parole.¹⁵⁹ Fred said that he and his friends used to fight in an empty field, but it had recently been turned into million-dollar houses.¹⁶⁰ Rhett and Norbert talked wistfully about the macadamia fields where they used to fight roosters before all the “rich people mov[ed] in.”¹⁶¹

In the context of answering apparently unrelated questions about the opposition to cockfighting on Moa, cockfighters commonly expressed anger at nonlocals' refusal to respect local culture more broadly. That this connection was intuitive and automatic for so many cockfighters illustrates the degree to which they connected cockfighting to local culture. Interviewees also mentioned anti-cockfighting regulations in the context of talking about other negative changes. For example, Fred was explaining the importance of cockfighting to Moa's culture, then immediately transitioned to talking about how difficult it had become to find poi in the supermarket.¹⁶² And while discussing his neighbors' annoyance at his roosters' crowing, Greg interrupted himself and told me about a nonlocal who had asked him why he played his “lousy” Hawaiian music in the store all the time. Greg shook his head disgustedly as he told me this, saying, “If you wanted the mainland, you should stay in the states.”¹⁶³ For Greg, Norbert, and other fighters, opposition to cockfighting was interwoven with other changes to Moa. Because cockfighting-related disputes epitomize so much of locals' concern about

156. Interview with Ernie, *supra* note 67.

157. As I discussed above, string walks were a common arrangement for keeping roosters and required a great deal of space. But even fighters who kept their roosters in coops still needed a fair amount of land, since (unlike keeping hens) they needed a separate coop for each rooster to prevent the roosters from constantly fighting with each other and getting hurt.

158. Reportedly, these fights were somewhat of a hybrid between backyard fights and hack fights.

159. See *supra* note 47. If their parole was revoked, they would have to serve time in prison. Lucas explained that the lack of available land on which to hold fights meant that he was essentially relegated to fighting in his own backyard against small groups of friends. Interview with Lucas, *supra* note 65.

160. Interview with Fred, *supra* note 77.

161. Interview with Norbert, *supra* note 85.

162. Interview with Fred, *supra* note 77. Vincent mentioned this to me as well, when we were on one of our morning “poi runs” to the supermarket.

163. Interview with Greg, *supra* note 57.

demographic, economic, and regulatory changes, cockfighters on the island view their sport as emblematic of local-nonlocal conflict more broadly.

B. Local Perspectives on Law, Power, and Bureaucracy

There are several reasons why cockfighters perceive themselves as having little power. For one, locals believe that the class difference between themselves and nonlocals gives nonlocals more power. Both generally and within the cockfighting context, locals believe that law is aligned with the wealthy and powerful, and that it is therefore not a tool available to them. Cockfighting provides an ideal way to “take power back” both because it is an assertion of local identity *and* because it is unlawful.

Locals’ everyday encounters with the law tended to reinforce their belief that the legal system inherently favored people with ample resources. Vincent recounted an incident in which his car was damaged because city workers fixed a pothole incorrectly, costing him several hundred dollars in car repairs. He took pictures of the pothole and the damage to his car and wrote a letter to the city. Months later, he received a form letter denying his claim. I asked whether he had done anything else, and Vincent replied, “What am I going to do . . . Go out and hire a lawyer? Ha! The lawyer would cost me more than it would cost to fix my car. And they know that!”¹⁶⁴ In a different conversation, Vincent said that police treated wealthy people better than poor people because police knew that wealthy people possessed the resources to put up a fight in court. Arresting rich people just made more trouble for police officers themselves. On the other hand, Vincent said, not only can a poor or working-class person not afford a lawyer, but won’t be able to come to court because he cannot miss work.¹⁶⁵

Several cockfighters believed that cockfighting is only illegal because members of the working class favor it. Unlike participants in other sports involving animals, they said, cockfighters lack the financial means to wield political influence. Lucas said that rodeos were “just as bad” as cockfighting in terms of harm to animals, but that rodeos are legal because they are supported by “big money and big names.”¹⁶⁶ Dennis described a competitive fishing tournament he saw on television, where a competitor would hit the fish on the head with a mallet if it did not die on the hook. He also described cruelty he had seen at rodeos and explained that rodeos and fishing were legal because they were “rich men’s sports,” while cockfighting was a working-man’s sport.¹⁶⁷ Similarly, Benjamin told me that horseracing was only legal because “Haoles talk to politicians and say, ‘Hey’” (here, he pantomimed two people conspiring).¹⁶⁸ Vincent was fond of telling people, “Money talks, bullshit

164. Conversation with Vincent, in Moa, Haw. (June 13, 2007).

165. Conversation with Vincent, in Moa, Haw. (May 29, 2007).

166. Interview with Lucas, *supra* note 65.

167. Interview with Dennis, *supra* note 66.

168. Interview with Benjamin, *supra* note 122.

walks,” whenever law arose as a topic of conversation.¹⁶⁹ When I asked him what this meant, he said that it was impossible to do anything useful politically, or in the legal system, without money. Other fighters, too, seemed to take it for granted that the law would not be applied fairly across economic groups.

Even in situations where a lack of funds would not preclude them from accessing the legal system, many locals believed that legal professionals worked together to protect shared interests. A handful of interviewees were arrested a few years prior in a cockfighting raid they called the “big bust.”¹⁷⁰ Instead of engaging in the usual, routinized enforcement I have described, police officers went to several fighters’ homes and workplaces and arrested them. The unlucky arrestees—who, by all accounts, were not necessarily the men most deeply involved—were charged with felonies.¹⁷¹ Not only were these men dissatisfied with their experiences in the criminal justice system, but they believed that the system was “rigged” against nonlawyers. Dennis told his family not to waste their money on a private attorney; he would go with a public defender because it made no difference, since all the lawyers know each other.¹⁷² Rick, who hired a private attorney, said that his attorney did not advocate much for him. Because all the lawyers are friends with each other and work together all the time, he explained, their first loyalty is to one another.¹⁷³ Rick believed that it was more important for lawyers to preserve a good working relationship with opposing counsel than to vigorously defend individual clients.¹⁷⁴

Some interviewees also reported that it was hard to find an attorney who was not just a “plea bargain lawyer.”¹⁷⁵ As Lucas explained, a plea bargain lawyer is a lawyer who is not willing to go to bat for a client because “he don’t want to fuck everything up.”¹⁷⁶ For Lucas, a willingness to “fuck everything up” was a desirable quality in a lawyer because it suggested loyalty to a client rather than to the legal system. It meant a willingness to stir up “trouble” by going “out on a limb” to represent a client, even at the risk of annoying judges or other lawyers and creating a challenge for the attorney. A “plea bargain

169. *E.g.*, Conversation with Vincent, in Moa, Haw. (May 27, 2007).

170. *E.g.*, Conversation with Vincent, in Moa, Haw. (June 6, 2007); Interview with Dennis, *supra* note 66; Interview with Rick, *supra* note 78.

171. For a detailed description of the big bust and its sociological implications, see Young, *supra* note 46, at 514–15.

172. Interview with Dennis, *supra* note 66.

173. Interview with Rick, *supra* note 78.

174. Dennis’s and Rick’s descriptions, as well as those of other fighters, echo some of the fundamental concerns that law and society scholars have articulated about inequality in the legal system. See, e.g., Marc Galanter, *Why the “Haves” Come out Ahead: Speculations on the Limits of Legal Change*, 9 LAW & SOC’Y REV. 95 (1974).

175. Interview with Rick, *supra* note 78.

176. Interview with Lucas, *supra* note 65.

lawyer,” on the other hand, skated through the system while making as few “waves” as possible.¹⁷⁷

A number of sociolegal scholars have explored the incentives that draw lawyers’ motivations away from the client and toward longer-term interests or broader professional concerns. Abraham Blumberg described law as a “confidence game” in which the client is the “mark.”¹⁷⁸ Part of a lawyer’s role, Blumberg argued, is to “cool out” a client—to make them feel as if they have received professional attention and service—when in fact the attorney’s “higher loyalty” is to the court system.¹⁷⁹ The reactions of Lucas and the other big bust defendants underscore criminal defendants’ awareness of this dynamic.¹⁸⁰

C. Bureaucratic Barriers and Local Problem Solving

Several fighters also articulated the practical difficulty, and sometimes impossibility, of navigating official bureaucracies, legal or otherwise. While I was staying with him, Vincent developed a somewhat pressing health problem and drove to the doctor’s office to make an appointment. The receptionist asked Vincent whom he usually saw, then told him that his doctor was not available for a month. When Vincent explained this to me that evening, I asked if he had tried to make an appointment with a different doctor. He had not; instead, he had left, because he was mad and it was “ridiculous” that they would make him wait a whole month.¹⁸¹ This anecdote illustrates the sense of futility Vincent experienced when facing bureaucratic barriers and was characteristic of other fighters’ behavior when they tried to navigate “official” channels.

At one point when I was talking with Rhett and another fighter at the hack fights, Rhett wondered aloud whether a cockfighting arrest could prevent him from receiving government benefits, such as social security. The men speculated for a while about where the benefits came from and what factors might determine whether the government decided to take benefits away. After

177. *Id.*

178. Abraham S. Blumberg, *The Practice of Law as Confidence Game: Organizational Cooptation of a Profession*, 1 *LAW & SOC’Y REV.* 15, 24 (1967).

179. *Id.* at 27–28; see also Talcott Parsons, *A Sociologist Looks at the Legal Profession*, in *ESSAYS IN SOCIOLOGICAL THEORY PURE AND APPLIED* 370, 382–85 (1954).

180. This type of awareness has long been acknowledged in the sociolegal literature. See, e.g., Roy B. Flemming, *Client Games: Defense Attorney Perspectives on Their Relations with Criminal Clients*, 11 *AM. B. FOUND. RES. J.* 253, 254 (1986) (discussing criminal defendants’ skepticism of their publicly appointed attorneys); Keith Guzik, *The Agencies of Abuse: Intimate Abusers’ Experience of Presumptive Arrest and Prosecution*, 42 *LAW & SOC’Y REV.* 111, 127 (2008) (explaining that a number of criminal defendants in abuse cases were “skeptical of their attorneys’ allegiance to them”).

181. Conversation with Vincent, in Moa, Haw. (June 14, 2007). Concerned about Vincent’s health, I suggested he call the office and ask to see a different doctor. Reluctantly, he did so the next day, and they made him an appointment for later that week (ironically, with his usual doctor).

listening for a while, I said vaguely, “You could probably find out.” Both fighters looked at me, incredulous, and one of them asked, “How would you *find out*?” In their eyes, there was no way to anticipate something like this; when it came down to it, their receipt of benefits was something the “government” would simply “decide.”¹⁸²

Annette Lareau has discussed the relationship between social class and individual interaction styles in navigating professional bureaucracies.¹⁸³ She has observed that upper-middle-class children are socialized to interact with professionals as equals, use institutions to their advantage, and voice requests for change when they are dissatisfied with the treatment or outcome they receive. Working-class children, on the other hand, lack this emerging sense of entitlement, are taught to be deferential to authority, and are discouraged from voicing dissatisfaction, asking questions, or requesting additional information from “experts” or authority figures. Moe locals are working-class and occupy a subordinate position in the social order because of their class status *and* their local status. Vincent and Rhett are both hardworking, intelligent men, yet they find professional and legal bureaucracies difficult or impossible to navigate.

In part because of the frustration involved, the locals with whom I spoke tended to avoid bureaucratic encounters whenever possible, in much the same way Vincent did when he walked away from the doctor’s office. In solving the kinds of problems that someone with a stronger sense of entitlement might consider justiciable, fighters try to avoid the legal system, instead preferring to solve problems on their own.

Ernie, for instance, was divorced decades earlier and talked about his trouble responding to the legal system’s demands that he pay child support. On the rare occasions he was forced to show up to court, he “dressed in rags” so that the judge would not make him pay anything.¹⁸⁴ Yet he also described giving his children a large amount of monetary support, which he continued to do long after it was no longer required by law. For example, he recently sent his adult son a thousand dollars after the phone company turned off the son’s cell phone, and he bought new school clothes every fall for his granddaughter. He had long ignored orders to pay child support, instead simply sending his kids as much money as he could afford whenever he had the chance.¹⁸⁵ Ernie did not object to supporting his children but was resistant to doing it through “official” channels at required intervals.

Similarly, when someone stole a few roosters from his yard, Rhett investigated the theft on his own instead of calling the police. One of his neighbors mentioned seeing a truck outside Rhett’s house. Armed with a

182. Conversation with Rhett and other fighters, in Moe, Haw. (May 27, 2007).

183. Annette Lareau, *Invisible Inequality: Social Class and Childrearing in Black Families and White Families*, 67 AM. SOC. REV. 747, 766–71 (2002).

184. Interview with Ernie, *supra* note 67.

185. *Id.*

description, Rhett hopped into his own truck and searched for the thieves. He found a vehicle that matched the description in a neighboring town, parked behind a bar. In a nearby yard where four local teenagers were hanging out, Rhett spotted one of his roosters tied to the house. When the boys denied their involvement, Rhett jumped into the yard: “I just give one kid one slap across the head,” then “kicked him.” Although Rhett recalled that the police arrived at some point, he could not remember who had called them or whether they had done anything. In his account, the police were peripheral. I asked Rhett how the situation had ended, and he said he had resolved it by making an agreement with the boys: if they gave back the roosters, he would not return and beat them up. Rhett told me proudly, “They knew *what* they was stealing, but they never knew who they was stealing *from*.”¹⁸⁶ It turned out, as is often true in Moa, that there was another connection: the boys’ mother was the sister of one of Rhett’s good friends. Rhett said this guaranteed the boys would not bother him again. In his view, these informal networks of social control were more powerful than any prospect of police involvement. Rhett’s problem-solving technique offers a striking contrast to his earlier inability to fathom how a person might predict the receipt of government benefits. In the former situation, he clearly felt a strong sense of personal agency, and viewed himself as entitled to get his roosters back

Rhett’s behavior and problem-solving strategies echo Ellickson’s description of livestock trespass-related conflict resolution among cattle owners in Shasta County, California.¹⁸⁷ Ellickson wrote that contrary to what the Coase Theorem would predict, cattle ranchers in Shasta County did not look to the formal law to understand their legal remedies. Rather, *social norms*, not formal legal entitlements, governed their behavior. In the local context within which these norms were at work, deviance and trespass were most effectively controlled through informal means. Ellickson found that ranchers turned first to “self-help retaliation,” such as besmirching a neighbor’s name to other neighbors or herding wayward livestock to a location that would be inconvenient for the neglectful owner.¹⁸⁸ Similarly, as a local living in a rural area, Rhett knew that his relationship with the teenagers who stole his roosters would continue (or could continue if he needed it to). That he and the teenagers had a mutual acquaintance was neither, in Rhett’s eyes, a reason for leniency nor a motivation for avoiding police involvement. Rather, it helped guarantee that the teenagers would leave his roosters alone in the future.

Like Ellickson’s ranchers, Rhett’s problem-solving techniques neither imitated the formal law nor operated in its “shadow”; rather, they operated “beyond” the law.¹⁸⁹ In addition to having an intact sense of entitlement to a

186. Interview with Rhett, *supra* note 120.

187. See Ellickson, *supra* note 14.

188. *Id.* at 677–78; see also ELLICKSON, ORDER WITHOUT LAW, *supra* note 14, at 57–58.

189. Ellickson, *supra* note 14, at 672.

particular form of relief, Rhett considered the long-term implications of his actions—a version of “[t]he complexity of interneighbor relations”¹⁹⁰ that Ellickson described. Additionally, by *not* moving the site of conflict into the legal arena, Rhett was able to deal with the problem in the neighborhood, his local arena, where he held more power and was a repeat player. Thus, we might view Rhett’s approach not simply as reflecting a belief that the legal system is “rigged,” but as a strategic move that allowed him to maximize his own power.

Of course, it is not easy to untangle the multiple factors that contributed to Vincent’s difficulty in getting a doctor’s appointment and to Rhett’s decision to solve his rooster theft problem without state involvement. Class-based entitlement (or a lack thereof), education, personal experience, culture, rurality,¹⁹¹ and the local-nonlocal divide play interrelated roles in the ways law and state power operate in these men’s everyday lives. In thinking about how law functions on the ground, and about how to implement laws in ways that make them equally accessible to everyone, it is crucial to understand the texture of people’s lived realities.

D. *A Sense of Futility*

A person’s perception of a problem’s justiciability is partly contingent on that person’s background. Rebecca L. Sandefur has written that experience “creat[es] dispositions that come to colour future behaviour” and “affect[s] early, fundamental decisions about what options to explore and pursue.”¹⁹² This mechanism, she concluded, contributes to class-based differences in people’s willingness to pursue legal solutions to problems. Sandefur’s framework is another way to understand locals’ relationship with the law. Their experiences with the law and their understandings of *others’* experiences with the law¹⁹³ affect how they think about problems. If locals believe the legal system is useless, favors the wealthy, or is too complicated to navigate effectively, using the legal system may not occur to them as a means of solving problems.

Cockfighting is important in part because locals perceive few other means of expressing their frustration with the changes around them. Due largely to the perceived class difference between locals and nonlocals, locals tend to have a

190. *See id.* at 675.

191. Increasingly, legal scholars have been examining the relationship between law and rural spatiality, pointing out that in a variety of contexts, rote application of the law, absent consideration of rural-urban differences, results in less effective legal protection for rural Americans. *See, e.g.,* Boso, *supra* note 108; Lisa R. Pruitt & Marta R. Vanegas, *Urbanormativity, Spatial Privilege, and Judicial Blind Spots in Abortion Law*, 30 BERKELEY J. GENDER L. & JUST. 76 (2015); Lisa R. Pruitt, *Place Matters: Domestic Violence and Rural Difference*, 23 WIS. J.L. GENDER & SOC’Y 347 (2008).

192. Rebecca L. Sandefur, *The Importance of Doing Nothing: Everyday Problems and Responses of Inaction*, in TRANSFORMING LIVES: LAW AND SOCIAL PROCESS 112, 127 (Pascoe Pleasence et al. eds., 2007).

193. For an in-depth description of “second-order” legal consciousness in this setting—that is, what cockfighters believe about others’ understandings of the law and how this affects fighters’ own relationships to the law—see Young, *supra* note 46.

sense of futility that precludes direct collective action. This feeling is coupled with a strong cultural norm to “live and let live.” Even when they express anger at nonlocals’ intrusion on their way of life, locals are reluctant to “intrude” back, producing a general sense of resignation. It is common to have a long conversation with a local about his dissatisfaction regarding nonlocals, but for him to adopt a hands-off tone when the subject of collective action arises.

Pat provides one example of this resignation. Over tea at a local-owned Japanese restaurant, he told me how upset he was about the residential growth on the island, particularly the addition of some new shopping centers and gated communities. But when I asked him if he thought anything should be done about it, he thought silently for several seconds, then said, “I hate people criticizing the other human.”¹⁹⁴ I understood this to mean that, as upset as he was about the changes he described, he was unwilling to take action that passed judgment on nonlocals’ choices.

Similarly, Rick talked for nearly an hour with me about how Moa had become “overgrown” since his childhood. When I asked him if he had ever done anything about it, he shook his head, saying, “My opinion is, I was born in a good time. We seen all the good things come to an end . . . You’ve got to face reality.”¹⁹⁵ Rick’s uncertain tone made it sound as if he was trying to convince himself. Vincent and Dennis reacted similarly. As upset as they were about the growth, they each said resignedly, “You can’t stop progress.”¹⁹⁶

Nonlocals perceive locals’ sense of futility as well. At a bookstore I frequented, I sometimes talked with Melissa, a white nonlocal bookseller in her early forties who had lived in Hawaii for ten years and was sympathetic to locals’ concerns. Discussing how Moa had changed since her arrival, she said that the locals’ reaction to the growth was “ironic” because although they were the group most affected by it, they rarely took any kind of political action. In Melissa’s view, this was because the local culture discouraged political involvement; in her opinion, locals were “observers,” not activists.¹⁹⁷

Another reason locals may not organize collectively is that the economic opportunities newcomers bring can create severe cognitive dissonance. For example, Rick worked in a quarry for a concrete company. Despite his negative feelings about Moa’s growth, he said that he would not have a job without new people moving in.¹⁹⁸ And although Greg was employed at a market when I met him, he planned to leave his job to work in construction for a higher salary. Greg expected that he would help build “big houses on the beach,” and that it

194. Interview with Pat, *supra* note 58.

195. Interview with Rick, *supra* note 78.

196. Conversation with Vincent and Dennis, in Moa, Haw. (June 24, 2007); Conversation with Vincent and Dennis, in Moa, Haw. (May 26, 2007).

197. Conversation with Melissa, in Moa, Haw. (May 30, 2007).

198. Interview with Rick, *supra* note 78.

would not be local people buying those houses. I asked, “Is that weird for you?” Greg replied, “Totally! That’s the shitty part.”¹⁹⁹

Few locals I encountered mentioned being part of a political group or taking any political action related to Moa’s changes.²⁰⁰ Indeed, several mentioned that they had not voted in years. This lack of political involvement is consistent with Hawaii’s low overall voter turnout, which was the lowest reported turnout of all fifty states in the 2004,²⁰¹ 2008,²⁰² and 2012²⁰³ general elections (an especially surprising fact in the latter two general elections, given presidential candidate Barack Obama’s affiliation with Hawaii). Vincent, a nonvoter, told me he was “an example of what they call ‘public apathy.’”²⁰⁴ Apart from not voting, however, Vincent did not strike me as politically apathetic. He watched the news every night and often engaged me in conversations about national politics. Norbert, also a nonvoter, was similarly informed about local politics and expressed detailed opinions about Hawaii politicians.

The sense of political futility dovetails with locals’ views about law and power. For example, Vincent recounted an experience with the legal system in which a judge was blatantly unfair to him. After he finished describing the incident, he asked for my opinion. I agreed that from his description, it sounded unfair. I asked if he thought he could do anything about it. Vincent said, “I’m just a little pea!” I wondered aloud whether there might have been a way to file a claim. He replied, “If I had money and influence, I would have done something.”²⁰⁵ Similarly, when Juan lamented the construction of new residences and I asked him if there was anything that could be done, he told me there was not: “It’s money—everything has to do with money.”²⁰⁶

Locals’ reactions resemble the attitudes of the welfare recipients John Gilliom discussed in *Overseers of the Poor*.²⁰⁷ Although locals are not subject to the kind of government oversight Gilliom described—frequent, invasive searches and drug tests—their experience with the legal system is analogous, quickly teaching them that people with power have nearly total discretion when

199. Interview with Greg, *supra* note 57.

200. The only *direct* political involvement fighters reported engaging in was—and only in rare instances—attending meetings to discuss ordinances banning roosters from particular residential areas, or putting other limits on rooster ownership. None of the locals reported prevailing at any of these meetings, even when they greatly outnumbered nonlocals.

201. *2004 November General Election Turnout Rates*, U.S. ELECTIONS PROJECT (Dec. 28, 2011), <http://www.electproject.org/2004g> [<http://perma.cc/Q3GD-EB24>].

202. *2008 November General Election Turnout Rates*, U.S. ELECTIONS PROJECT (Mar. 31, 2012), <http://www.electproject.org/2008g> [<http://perma.cc/QRD4-QFRL>].

203. *2012 November General Election Turnout Rates*, U.S. ELECTIONS PROJECT (Sept. 3, 2014), <http://www.electproject.org/2012g> [<http://perma.cc/YL9B-JZXS>].

204. Conversation with Vincent, *supra* note 121.

205. Conversation with Vincent, in Moa, Haw. (May 31, 2007).

206. Interview with Juan, *supra* note 81.

207. See JOHN GILLIOM, *OVERSEERS OF THE POOR: SURVEILLANCE, RESISTANCE, AND THE LIMITS OF PRIVACY* (2001).

it comes to the law. Recall Rheatt and Vincent's assumption that it was impossible to learn whether being arrested would affect the government benefits they received. In their eyes, if the government wanted to deny their benefits, there was nothing they could do about it. As a group, locals feel that their voices are tamped down by existing power relations, which largely have to do with the lopsided distribution of financial and political power. In general, they experience little personal agency in law-related areas of their lives.

E. Cockfighting as Informal Resistance

James C. Scott wrote that if a group of people within a social structure lacks power, its members will resist in small ways that, cumulatively, make it difficult for those in power to control them.²⁰⁸ Cockfighting can be interpreted as a case of this kind of "peasant" resistance. Cockfighters' participation in fighting is oppositional, but despite strong feelings shared by a large and diverse group of cockfighters, there is virtually no organized political opposition to the influx of nonlocals, or even to nonlocals' attempts to introduce ordinances banning or limiting roosters in residential areas.

Outside of cockfighting, one of the few times I saw locals exercise anything that might be called "resistance" was in the form of noncompliance with regulations. One controversy on Moa involved water shortages—a recurring problem in Hawaii, and one associated with growth and tourism.²⁰⁹ Moa's county government had imposed water-rationing regulations to help combat the island's water shortage. Tad, a noncockfighting local in his seventies, said that "Haoles" were taking his water and building on the drier parts of the island.²¹⁰ Because he resented the new regulations, Tad stood in his yard during the hottest part of the day and "soaked it real good." A city worker came by and threatened to take Tad's water meter. Tad told the worker that he would not *have* to take it out, because Tad would pull it out himself and "put it through [his] head!" After that, Tad said, they "became enemies."²¹¹

Another example was Lee, who owned an older house on a large piece of property. A developer erected a subdivision on a previously empty lot close to Lee's house. The development company asked Lee to make expensive structural changes, such as putting a new roof on his house. Instead of complying, Lee informed the development company that he would soon begin raising pigs on the land that bordered the subdivision.²¹²

208. JAMES C. SCOTT, *WEAPONS OF THE WEAK: EVERYDAY FORMS OF PEASANT RESISTANCE* (1985).

209. See, e.g., Canan & Hennessy, *supra* note 68.

210. Seth, Abraham, Juan, and several others—including strangers I overheard—also disliked being told to ration water and attributed the new rules to the influx of mainlanders.

211. Conversation with Tad, *supra* note 59.

212. Interview with Lee, in Moa, Haw. (June 19, 2007). Lee eventually decided against this move after his neighbors moved in; he told me that he actually likes them because they leave him alone and never try to tell him what to do.

But these small, infrequent acts of resistance are not designed to enact broader change; rather, individual acts of resistance allow men like Tad and Lee to assert a measure of personal agency and autonomy, much as Scott described.²¹³ Dennis told me, “You need not go with the flow, but you can’t change the establishment.”²¹⁴ From Dennis’s point of view, the most he could do was to live as *he* wanted to live—as he put it, to “not go with the flow.”

While locals may perceive organized resistance to Moa’s growth as futile, economically unwise, or an unseemly encroachment on other people’s choices, cockfighting provides a way that locals can demonstrate resistance to the social groups to whom this resistance matters most: themselves and other locals. At a time when cockfighters perceive an increasing erosion of local customs and ways of life, cockfighting assumes meaning as a symbol of local culture, cultural passion, and a working-class sensibility. It is viewed as oppositional to the changes that nonlocal newcomers bring to Moa.

Moreover, this impetus is strong enough that it not only entices normally law-abiding men to continue breaking the law but also renders legal deterrents ineffective. Many cockfighters predicted that even if cockfighting became a felony in Hawaii, participation would not stop, but simply take a different form. Lucas speculated that the large weekly hack fights might be curbed if cockfighters were regularly charged with felonies, but that more backyard fights would spring up.²¹⁵ Rhett said, “If they shut it down, we just gon’ go [find] somewhere else.”²¹⁶ When I asked Pat whether cockfighting would still be popular if it was a felony, he said, “If you love what you’re doing, you’ll find a way,” and reiterated the importance of cockfighting in his own life.²¹⁷ And Fred, who had been arrested for cockfighting three times, said, “Until I die, I’m not going to give up roosters.”²¹⁸

It is not simply the case that cockfighting persists in Hawaii because the punishment is insufficiently severe. Rather, it persists because of its importance to those who engage in it. This importance is underscored by the apparent misalignment between the actual enforcement of cockfighting laws—which, as I have described, is markedly lax—and the cockfighters’ reactions to the scant enforcement.²¹⁹ That is, although cockfighters generally have positive impressions of the police, they are outraged that *any* regulation of cockfighting occurs. But despite the continued allowance of hack fights, the cockfighters nonetheless object to even minimal enforcement. Benjamin, for example, demanded, “Why they got to raid the place where they cockfight? What they

213. See SCOTT, *supra* note 208.

214. Interview with Dennis, *supra* note 66.

215. Interview with Lucas, *supra* note 65.

216. Interview with Rhett, *supra* note 120.

217. Interview with Pat, *supra* note 58.

218. Interview with Fred, *supra* note 77.

219. For a fuller discussion of cockfighters’ impressions of the police and their own identities as law-abiding individuals, see Young, *supra* note 46, at 513–14.

got against the local people?”²²⁰ The idea that the apparently lax enforcement constituted a “raid” would seem laughable to many outsiders. Yet for Benjamin and other fighters, the significance of *any* regulation is amplified by other social and economic changes that have negatively affected locals, as well as by the lack of opportunity to meaningfully resist these changes. As cockfighters see it, opposition to cockfighting, no matter how minor, constitutes opposition to local people themselves.

David Engel’s work on one Illinois county’s resistance to personal injury litigation is particularly instructive in explaining cockfighters’ opposition to regulation.²²¹ Engel noted that longtime residents of Sander County vehemently opposed personal injury lawsuits and viewed them as a rampant problem. But in actuality, these lawsuits were few and far between. Why was there such a discrepancy between reality and the residents’ beliefs? Engel argued that in part, the answer lied in “changes that were occurring in the social structure of Sander County at the time of this study and in challenges to the traditional order that were being raised by newly arrived ‘outsiders.’”²²² Newcomers were thought to bring extraneous lawsuits that challenged the existing social and economic order. These lawsuits symbolized threats to the values and “way of life” that had long characterized Sander County. In Moa, anti-cockfighting regulations were viewed similarly. Though the regulations were neither harsh nor stringently enforced, locals perceived anti-cockfighting regulations as both symbolic and actual threats to local life. Engel wrote about Sander County, “The newcomers brought with them conceptions of injuries, rights, and obligations that were quite different from those that had long prevailed”²²³—a sentence that describes Moa just as aptly.

Like the trial courts in Engel’s example, the cockfighting ring at the Moa hack fights came to be highly symbolic—a potentially “important battleground in the clash of cultures.”²²⁴ In Sander County, longtime residents were resistant to lawsuits because the suits seemed like a symbol of the potential for negative change associated with the newcomers. On Moa, the symbolic dynamic is the same: *any* enforcement of cockfighting laws came to be seen by locals as epitomizing the negative change associated with nonlocals. Arresting cockfighters, even for misdemeanors, or enacting ordinances to regulate roosters’ crowing, represents the larger trend of the local culture’s suppression.²²⁵ Although cockfighting had taken place for decades, the

220. Interview with Benjamin, *supra* note 122.

221. See Engel, *supra* note 15, at 554.

222. *Id.*

223. *Id.* at 578.

224. See *id.* at 554.

225. Like exposure to risk in Sander County, cockfighting in Moa and the prevalence of animals in residential areas was seen as a “way of life”—part of the physical and cultural landscape. Just as longtime residents of Sander County expected newer residents to deal with the attendant risks of rural life, or to avoid moving there at all, Moa locals expected nonlocals to accept the aspects of life

intensity with which locals opposed the newer changes to Mōa infused the activity with important symbolic meaning, such that any suppression of cockfighting came to be seen as a suppression of locals themselves.²²⁶ Cockfighting has probably not always held meaning as a resistance activity in Hawaii, but it has evolved into one over time. The changing social, legal, and economic situation on Mōa, and locals' responses to it, has endowed cockfighting with an oppositional meaning. Modern-day cockfighting offers locals a means of informal resistance to the ways in which their island's landscape is changing.

VI.

IMPLICATIONS FOR LAW ENFORCEMENT

For those who wish to see cockfighting eradicated, the findings I have described are both good news and bad news. Because cockfighters' motivation is grounded in identity and resistance, as opposed to a calculated weighing of the risks and benefits of participation, usual deterrence strategies are unlikely to be effective. If fighters were weighing whether the risk of a misdemeanor arrest was "worth" a 50 percent chance of winning one thousand dollars, upping the misdemeanor to a felony would change the calculus. But in modern-day Hawaiian cockfighting, fighters' motivations are not so simple or straightforward. As I have discussed, increased enforcement and punishment would likely change the form, but not the fact, of cockfighting. Even shutting down the weekly hack fights would probably just result in a proliferation of smaller, more secretive forums. This might reduce the number of spectators who attend and gamble, thus reducing the number of people who are "involved." But it would likely do nothing to reduce the amount of harm to the birds.

Instead, a promising attempt to eradicate Hawaiian cockfighting would need to incorporate policies that gave cockfighters and other locals other meaningful ways to express local identity and resist negative change. Take, for example, a highly successful anti-littering campaign on the island of Maui. Faced with a littering crisis on the island, Maui County turned to Kathy "Tita" Collins—a popular local radio personality, comedian, and storyteller—to record anti-littering radio spots in heavy Hawaiian Pidgin.²²⁷ The "no littah"

on Mōa that preceded their arrival. They were baffled about why a person would move there unprepared to adapt to those differences, let alone how a person could have the gall to try to change them.

226. And just as Sander County residents were not opposed to lawsuits in general (Engel talks a great deal about Sander County residents' acceptance of contract disputes as a necessary fixture in the legal system, *see* Engel, *supra* note 15, at 574–77), most cockfighters expressed no general antipathy toward the police.

227. Christie Wilson, "Tita" Knows Best When It Comes to Litter on Maui, HONOLULU ADVERTISER (May 17, 2006), <http://the.honoluluadvertiser.com/article/2006/May/17/In/FP605170347.html> [<http://perma.cc/2JEY-E4QH>].

(meaning “don’t litter” in Pidgin) campaign was highly successful, and the words “no littah” began adorning bumper stickers and billboards throughout the island. This local parlance seemed to come *from* locals, giving the campaign a “local” feel rather than a bureaucratic one. While eradicating cockfighting is much trickier, we might imagine an approach that takes into account the meaning that the activity has for locals; a public campaign against cockfighting addressed specifically *to* locals would be a promising first step in disentangling cockfighting from local identity.²²⁸

More generally, reducing friction between locals and nonlocals, and increasing the comparative social status of locals versus nonlocals, would rob the cockfight of some of its symbolic weight as a resistance activity. For example, we might imagine housing reforms that would help make single-family homes affordable for locals, or the creation of political, cultural, or educational forums for expressing local identity, or modified political processes to encourage and facilitate locals’ participation. If locals felt a greater sense of agency with regard to Moa’s social and economic changes, or if the perceived threat to local identity was reduced, cockfighting would seem less crucial in the battle over the island’s future. Instead, proposed reforms have focused on increasing punishment, largely ignoring cockfighters’ lived realities.

Attempts to impose punishment can be especially complicated in situations where “official,” often state-sanctioned, authority lacks a certain cultural authenticity. Fundamentally, these are arguments about legitimacy—who has the right to judge, to punish, and to exclude.²²⁹ Consider Paul Butler’s “hip-hop theory” of punishment. In his discussion of consequences for criminal actions, Butler argued that punishment will be accepted as a more legitimate response to crime if it is imposed by people who lack prejudices against the community because they are a *part* of it.²³⁰ In Butler’s formulation, the relevant categories are racial, but an argument about cultural legitimacy underlies his reasoning as well. Much like all-white juries in cases involving minority defendants from predominately minority communities, nonlocals on Moa are “outsiders” not just to a practice, but to the culture that surrounds it. The same might be said about illegal practices rooted in religious cultures. For example,

228. For example, such a campaign might appeal to locals’ desire to protect the *aina* and its inhabitants, which include roosters.

229. It is well established that perceptions of legitimacy have important implications for obedience to and perceptions of the law. *See, e.g.*, TOM R. TYLER, WHY PEOPLE OBEY THE LAW (2006); Jonathan D. Casper et al., *Procedural Justice in Felony Cases*, 22 LAW & SOC’Y REV. 483 (1988); Tom R. Tyler, *What Is Procedural Justice? Criteria Used by Citizens to Assess the Fairness of Legal Procedures*, 22 LAW & SOC’Y REV. 103 (1988). Legitimacy’s ability to manipulate individuals’ behavior, of course, is a “double-edged sword.” Robert J. MacCoun, *Voice, Control, and Belonging: The Double-Edged Sword of Procedural Fairness*, 1 ANN. REV. L. & SOC. SCI. 171 (2005) (discussing the potential for government authorities to use the appearance of fair procedure to mask unfair or biased outcomes).

230. Paul Butler, *Much Respect: Toward a Hip-Hop Theory of Punishment*, 56 STAN. L. REV. 983, 1011–13 (2004).

experts on female genital mutilation argue that people seeking to eliminate the practice have enjoyed limited success due in part to an incomplete understanding of why it exists and its meaning to those who perpetrate it.²³¹

However, arguments about whether an activity constitutes a “cultural practice” have at least two drawbacks. First, they can quickly become reductive. Is dogfighting a “cultural practice” simply because it is a historical one, or because it is linked to the history of particular groups?²³² If so, this argument could be used to justify a great number of objectionable practices. Second, the validity of a practice as a “cultural activity” is often viewed as prescriptive for its legal status: if cockfighting *is* a “cultural activity,” it should be legal,²³³ if not, it is simply a form of animal cruelty.²³⁴ Although cultural context can be useful in thinking about *how* to regulate a practice, it is less useful in determining *whether* the practice should be legal in the contemporary United States. I am comfortable with the nonrelativist position that strapping knives on roosters’ feet and allowing them to kick each other to bloody deaths does, indeed, constitute cruelty to animals in some objective sense. For the rooster, after all, the outcome is the same regardless of the cultural significance one attaches.

Hawaiian cockfighting provides a model for analyzing the norms surrounding other culturally ingrained illegal activities. The law and norms literature attempts to explain people’s law-related behavior in terms of ideas, attitudes, and behaviors that are commonplace, or become normalized, within a particular social group. But as Bernard Harcourt and Robert Weisberg have

231. See, e.g., Rachele Cassman, *Fighting to Make the Cut: Female Genital Cutting Studied Within the Context of Cultural Relativism*, 6 NW. J. INT’L HUM. RTS. 128 (2007). Cassman writes in relevant part, “If the focus is truly on a solution, and not on the imposition of Western beliefs on African cultures, then this solution must reconcile how on one hand FGC is a torturous, painful, barbaric practice, while on the other hand, it is a practice that lies at the heart of cherished tradition, value, and honor.” *Id.*; see also Erika Sussman, *Contending with Culture: An Analysis of the Female Genital Mutilation Act of 1996*, 31 CORNELL INT’L L.J. 193 (1998).

232. See Phyllis G. Coleman, *Note to Athletes, NFL, and NBA: Dog Fighting Is a Crime, Not a Sport*, 3 J. ANIMAL L. & ETHICS 85, 88–90 (2009) (discussing the historical roots of dogfighting in the United States).

233. See H. Res. 199, 25th Leg., Reg. Sess. (Haw. 2010) (proposing recognition of cockfighting as a cultural activity in Hawaii); see also Testimonial Letters from Many Hawaii Residents, http://www.capitol.hawaii.gov/session2010/testimony/HCR277_TESTIMONY_TCI_03-29-10_LATE_.pdf [<http://perma.cc/STY2-WLD6>].

234. Indeed, this argument has been used in court at least once as a defense of cockfighting, at least to the extent that it is practiced by Native Hawaiians. In *Kahaikupuna v. State*, 124 P.3d. 975 (Haw. 2005), state residents of Native Hawaiian descent sought a declaratory judgment that cockfighting was a Native Hawaiian customary right under the state constitution. The Hawaii Supreme Court held that since none of the plaintiffs had actually been arrested or prosecuted for cockfighting-related offenses, no actual controversy existed. The court relied on *Pacific Meat Co. v. Otagaki*, 394 P.2d 618, 620 (Haw. 1964), which held that a declaratory judgment is not ordinarily available to challenge a criminal statute’s validity. (But this second argument contains, at least, a grain of truth: attempts to abolish a culturally significant practice *without* understanding its modern cultural contours are shortsighted. In the case of cockfighting, such attempts tend to reinforce the social and economic oppression that endow cockfighting with so much resistant meaning.)

pointed out, this vein of scholarship is often unclear about the underlying social processes related to various law enforcement initiatives.²³⁵ This article has exemplified how ethnographic work might be used²³⁶ to gain insight into the perceptions and interactions that underlie and reinforce law-breaking behavior.

CONCLUSION

Drawing on the tradition of classic sociolegal studies, this article has probed the social meanings that underpin criminal activity in a highly localized context to better understand the relationship between law and social norms. In answering the calls for “thick description” in the criminal law realm,²³⁷ this article’s discussion of Hawaiian cockfighting offers insight that extends far beyond Hawaii and well outside the cockfighting ring. It also has implications for how we might approach particular types of crime—from street-corner drug sales to public drunkenness, and from female genital cutting to dogfighting—from both a practical and scholarly angle.

Although cockfighting participants wager on outcomes, they are not in it for the money. They are not cruel men by nature, indifferent to animals’ suffering. Nor do they participate simply for the sake of carrying out a tradition. Rather, cockfighting has multiple social and sociolegal functions. Like the forms of resistance Scott described, cockfighting is a way in which local men are *not* standing idly by while unfavorable changes steamroll their island. Instead, they are participating in a ritual that not only asserts their competence and intelligence as local men but holds powerful symbolism as a means of resisting social, legal, and economic threats to local life itself.

235. Harcourt, *supra* note 16; Weisberg, *supra* note 17. Gun-buying programs—in which youth are paid to turn in other youth who possess guns—are one example. In that case, deriving “norms” from the quantitative data cannot tell us why the data come out as they do; the literature “does not help us to determine whether the benefits derive from practical interference or disruption, on the one hand, or image-changing on the other.” Weisberg, *supra* note 17, at 507. As Weisberg stated, “In the absence of firm evidence, opposite effects can be just as easily imagined—including severe harm inflicted on youth identified as police cooperators.” *Id.*

236. “[S]everal scholars have called for a more in-depth, qualitative, and context-specific approach to analyzing the expressive effect of laws.” Adriaan Lanni, *The Expressive Effect of the Athenian Prostitution Laws*, 29 CLASSICAL ANTIQUITY 45, 49 (2010) (citing Ryan Goodman, *Beyond the Enforcement Principle: Sodomy Laws, Social Norms, and Social Panoptics*, 89 CALIF. L. REV. 643 (2001); Harcourt, *supra* note 16; Mark V. Tushnet, “Everything Old Is New Again”: *Early Reflections on the “New Chicago School,”* 1998 WIS. L. REV. 579 (1998); Weisberg, *supra* note 17).

237. Harcourt, *supra* note 16; *see also* Weisberg, *supra* note 17, at 474 (referencing CLIFFORD GEERTZ, LOCAL KNOWLEDGE: FURTHER ESSAYS IN INTERPRETIVE ANTHROPOLOGY 24–25 (1983)).

