Journal of Agriculture, Food Systems, and Community Development
ISSN: 2152-0801 online
https://foodsystemsjournal.org

Hāloa: The long breath of Hawaiian sovereignty, water rights, and Indigenous law

Tribal Food Systems Research Fellowship

FIRST NATIONS DEVELOPMENT INSTITUTE

Puanani Apoliona-Brown *
New York University

Submitted February 21, 2024 / Revised June 2 and July 12, 2024 / Accepted July 25, 2024 / Published online January 28, 2025

Citation: Apoliona-Brown, P. (2025). Hāloa: The long breath of Hawaiian sovereignty, water rights, and Indigenous law. *Journal of Agriculture, Food Systems, and Community Development*, *14*(1), 29–58. https://doi.org/10.5304/jafscd.2024.141.021

Abstract

This research explores how Native Hawaiian–led efforts to protect sacred lands and waters reveal forms of Indigenous survivance and resistance to the logics of settler colonialism. These forms range in visibility from direct protest to the perpetuation of Indigenous practices, values, and knowledge systems. Inspired by movements for social justice on the North American continent, the Hawaiian Renaissance of the 1970s saw a reawakening of pride in Hawaiian culture within the context of the rapid changes brought by statehood in 1959. In response to the forceful thrust of Americanization and physical displacement of rural communities, young Native Hawaiians rose to defend their right to live as Hawaiians in their own homeland. As a result of the activism of the Hawaiian Renaissance, the 1978 Constitutional Convention reaffirmed Native Hawaiian rights previously codified by Kingdom law, which included a unique public trust doctrine grounded in Indigenous land and water management. My research is guided by the moʻolelo (oral histories) of nā kūpuna who were once the "radical" activists of the Hawaiian Renaissance. Their stories shed light on a history unaccounted for in standard textbooks and reveal a genealogy of Native Hawaiian resistance that was reawakened under the banner of Aloha ʻĀina (reciprocal love of land).

Keywords

Aloha ʻĀina, cultural practice, environmental justice, food sovereignty, Hawaiian Renaissance, Indigenous resistance, Native Hawaiian, public trust, settler colonialism, water rights

* Puanani Apoliona-Brown, Department of Nutrition and Food Studies, Steinhardt School of Culture, Education, and Human Development, New York University; 411 Lafayette Street, 5th Floor; New York, NY 10003 USA; +1-212-998-5580; phb9806@nyu.edu

Funding Disclosure

This article was made possible with research funding from the First Nations Development Institute through the inaugural Tribal Food Systems Research Fellowship. Funding of the author's master's research came from New York University's Steinhardt Student Research and Creative Project Grant and the C. V. Starr Fund for Asian/Pacific/American Research.

Introduction

For many Indigenous communities, access to water ensures the ability to feed and sustain yourself in your culture on your land. While Indigenous dispossession is often associated with the tremendous loss of land seized by the United States, to ignore water misses one of the largest areas of Native Hawaiian struggle. Water rights have always been a fundamental part of Hawaiian law. Hawaiian Kingdom laws protecting Native Hawaiian traditional and customary practices, including the use of water for kalo (taro) cultivation, were reaffirmed within the Hawai'i State Constitution in 1978 due to the Hawaiian Renaissance of the 1970s, a period of tremendous activism and cultural revitalization. And yet water remains largely controlled by corporate interests, and an ongoing struggle tied to the perpetuation of Indigenous lifeways and the health of the land. This work considers the impact of settler colonialism on Indigenous foodways through the lens of Native Hawaiian resistance movements that reaffirm Indigenous forms of sovereignty and survivance grounded in Aloha 'Āina. Using the personal accounts of elders who fought to protect Native Hawaiian rights, this research traces the historical significance of water to Indigenous food sovereignty from the abundance of the traditional ahupua'a system to Hawai'i's current state of food and water scarcity, culminating in the devastating fires that ripped through Lahaina, Maui, in August 2023.

Settler Colonialism and Indigenous Survivance

Patrick Wolfe (2006) describes settler colonial invasion as a structure, rather than an event, contingent upon the elimination of the Native. Settler colonialism is a structural process that makes lands available for white settlement through various forms of Indigenous erasure.[1] And yet, Indigenous peoples persist. Audra Simpson (2014) reminds us that "this ongoing and structural project to acquire and maintain land, and to eliminate those on it, did not work completely" (p. 12). As Native scholars work to denaturalize the logics of settler colonialism that normalize Indigenous erasure, this story of Indigenous resurgence is a testament to our survivance[2] (Morgensen, 2011, p. 2).

Aloha 'Āina is a cultural and spiritual philosophy at the foundation of Kānaka 'Ōiwi[3] identity and is rooted in an ancestral worldview with deep love and connection to place based on kinship and reciprocity. The term, meaning love of land, has "structured centuries of sustainability" and continues to "frame community responses" to the challenges of today (Beamer et al, 2021, para. 1). Beyond offering a framework to address issues of environmental degradation, Aloha 'Āina also holds political connotations associated with Hawaiian sovereignty.[4]

After Queen Lili'uokalani was forcibly removed from power in 1893,[5] English became the primary mode of instruction through Act 57 of the 1896 Laws of the Republic of Hawai'i. Kānaka Maoli children were physically punished for speaking their own language in school. With 'ōlelo Hawai'i (Hawaiian language) effectively banned, the nūpepa (Hawaiian language newspaper) went underground and became an impor-

[1] This operates through the physical disappearance and displacement of Indigenous lives; the coordinated traumas of cultural repression and forced assimilation; and the racialization of Indigenous people that removes claims to nationhood often obfuscated by the celebration of liberal multicultural democracy.

[2] Ojibwe scholar Gerald Vizenor repurposed the term "survivance" to move beyond the paradigm of mere survival, orienting us instead toward "renewal and continuity into the future" (2008, p. 25). He describes survivance as "a reciprocal use of nature, not a monotheistic, territorial sovereignty" and Native stories of survivance as "an active presence" (1998, p. 15). According to Noelani Goodyear-Ka'opua (2013), "Aloha 'āina has been a practice of Kanaka Maoli survivance for generations" (p. 32).

[3] I use Native Hawaiian, Kānaka Maoli, and Kanaka 'Ōiwi interchangeably to refer to Indigenous people of Hawai'i. The term Kanaka *'Oiwi* (of the ancestral bone) emphasizes Hawaiian indigeneity in terms of ancestry (McGregor, 2010).

[4] Hui Aloha 'Āina was a political party that carried 38,000 signatures to Washington, D.C., protesting U.S. annexation in 1897. Almost every Kānaka Maoli today can point to an ancestor's signature in the Ku'e Petition.

[5] In 1893, Lili'uokalani was overthrown by a group of missionary descendants, sugar planters, and financiers backed by the U.S. Navy stationed at Pearl Harbor in what U.S. President Cleveland later condemned as an illegal "act of war" (Apology Resolution, 1993).

tant source of the resistance and survivance.[6] In the very first issue of the nūpepa, *Ke Aloha 'Āina*, published on May 5, 1895,[7] Joseph Nāwahī describes Aloha ʻĀina as a magnetic pull within the heart of the Hawaiian nation that unwaveringly points toward sovereignty (p. 7).[8] The term was intentionally resurrected during the Hawaiian Renaissance by activists inspired by stories of resistance from the time of the illegal overthrow (Blount Report, 1894–95).[9]

Storytelling as Methodology

According to Charlotte Coté (2022), Indigenous storytelling is "a powerful act of resistance" and a "transformative practice" that shapes who we are (p. 7). Our stories are "Indigenous theory 'in action'" (p. 8). As methodology, Indigenous storytelling challenges colonial narratives and academic paradigms by allowing Native voices, perspectives, and experiences to enter academic spaces that have historically been "unwelcoming and alienating for Indigenous people" (Larissa Behrendt as cited in Coté, p. 7). Eualeyai/Gamillaroi scholar Larissa Behrendt describes storytelling as "an act of sovereignty that reinforces Indigenous identity, values, and worldviews" (Behrendt as cited in Coté, p. 7).

For these reasons, my work centers the stories of Indigenous elders active during the Hawaiian Renaissance. Once dismissed as "radicals," their conviction turned the tide of colonial erasure at a critical moment in history. My parents' stories brought me to this research. My mother, Leimomi Apoliona, was a founding member of the Protect Kahoʻolawe ʻOhana (PKO or ʻOhana), a small group of Native Hawaiian activists who organized to stop the bombing of a sacred island that the United States Navy had used for target practice since World War II. My father, E. Cooper Brown, was an environmental lawyer with the public interest groups Life of the Land and Legal Aid Society of Hawaiʻi. He represented Native Hawaiian communities on various fronts, including early water rights litigation that set legal precedent for ongoing efforts to restore streamflow to traditional food systems using Hawaiʻi's unique public trust doctrine.

My research is guided by the moʻolelo (oral histories) of nā kūpuna (elders) who were part of the Hawaiian Renaissance. This methodology draws inspiration from environmental justice storytelling (Houston, 2013), which seeks to comprehend and communicate the place-based meaning of environmental injustice from the perspective of those most impacted by social and environmental imperialism, as well as community-based participatory research. In addition to secondary sources and archival data, I conducted interviews with over 20 activists, community leaders, educators, lawyers, politicians, and kalo (taro) farmers between December 2022 and August 2023. Their stories, personal records, and artifacts supplement the written record.

The Story of Hāloa

My mother's generation was born and raised during the intense cultural repression of the Territorial Period (1900–1959), when Kānaka Maoli were taught to either forget or be ashamed of who they were. For this reason, the support of nā kūpuna who held stories and chants passed down orally through generations was essential to the process of remembering (see W. Ritte quote, Appendix D). As the young activists of the Hawaiian Renaissance sought to recover the remnants of Hawaiian culture and history that were fast disappearing, stories,

[6] These efforts kept the Hawaiian language alive, allowing future generations a vast archive of Hawaiian genealogies, histories, and commentary that would have otherwise been lost.

[7] The article was published on May 25, 1895, just six months after he was arrested and charged with treason by the Republic of Hawaiʻi for his part in a failed attempt to restore Queen Liliʻuokalani to power.

[8] The original text reads, "Ke Aloha ʻĀina; He Aha Ia? ʻO ke Aloha ʻāina, ʻo ia ka ʻUme Māgēneti i loko o ka puʻuwai o ka Lāhui, e kāohi ana i ka noho Kūʻokoa Lanahila ʻana o kona one hānau ponoʻī." This means, "Aloha Aina; What is it? Aloha Aina is a magnetic pull in the heart of the Nation, steadfast in the sovereignty of his own birthplace" (translation by Kuʻulei Kanahele; Nāwahī, 1895, p. 7); see also Kaʻiwakīloumoku (n.d.), *Ke Aloha ʻĀina; He Aha Ia?*).

[9] Emmett Aluli and George Helm were researching the work of Hui Aloha ʻĀina and saw a connection between their efforts to protect Kahoʻolawe and the Hawaiian sovereignty movement at the turn of the century (Alegado, 2023; eulogy on file with author).

music, hula, and traditional foodways emerged as alternative conduits of knowledge that carried Hawaiian culture, like seeds waiting for the right conditions to grow.

George Jarret Helm, Jr., was a talented musician, born and raised on his family's homestead farm in Kalamaʻula, Molokaʻi. As the president of the Protect Kahoʻolawe ʻOhana, George brought the kūpuna into the movement through his music and sincere interest in learning about the old ways. According to my mother, who was his girlfriend at the time, George "always had his little beat-up guitar and he would just start singing the old songs. That's how he won the kūpuna over. I'm sure that's why Aunty Edith loved him!"

Edith Kenao Kanakaʻole, endearingly known as Aunty Edith,[10] is a revered kumu hula vital to the reawakening of Hawaiian culture and spiritual practices.[11] According to her daughter, Dr. Pualani Kanakaʻole Kanahele, at a time when people were still "hesitant about doing things Hawaiian" and Native Hawaiian lifeways were guarded and kept private, Aunty Edith shared her time, effort, and wealth of knowledge freely with the movement. She felt that "all this knowledge that we have, all this smarts in things Hawaiian, it's not ours. We learned it from something else or somewhere else, and mostly from chants. And so, it's not ours. It belongs to Hawaiʻi."

In 2023, a U.S. quarter was released honoring Aunty Edith's contributions to American history.[12] The coin features her image and the inscription "E hō mai ka ʻike" (Grant us wisdom), the opening words of a chant she composed for the protection of Kahoʻolawe that continues to ground every event and movement in Hawaiʻi today. Almost ironically, my mother recalls how it was Aunty Edith who suggested they not call themselves the Protect Kahoʻolawe Fund but the Protect Kahoʻolawe *ʻOhana*, which means family.

After enjoying Hawaiian music in Hilo, Hawaiʻi, Apoliona and Helm visited Aunty Edith at her homestead in Keaukaha. It was around 4am and George called out from their car, "Auhea ʻoe?" ("Where are you?"), to which Aunty Edith responded, "Hui! Mai ʻai!" ("Come in and eat!"). Apoliona recalls,

> She had a bowl of the most sour poi I've ever seen.[13] You put your finger in it and all the bubbles would pop. And then she had raw manini fish just cut in half, with Hawaiian salt on. And that was breakfast.

As they ate, Aunty Edith started talking about this very Hawaiian custom of sitting around the poi bowl together. You couldn't be mad at your company eating this way, dipping your fingers in the same bowl. She then started talking about ʻohā, the small offshoots that grow from the makua (parent), the main corm of the kalo plant, as illustrated in Figure 1. Traditionally, the makua is cut from the huli, which are the stalks used for replanting, and cooked using stones in an underground oven. It is then pounded to make poi, the staple food of the Hawaiian people.

Aunty Edith then explained how ʻohā is the root of the word ʻohana (family), and Hāloa, the kalo plant, is our elder sibling that we must care for and respect. With that, she said they should call themselves the Protect Kahoʻolawe *ʻOhana*, not "Fund."

Protect Kahoʻolawe ʻOhana is a name that prioritizes the abundance of land and family over financial wealth. The name intentionally reestablishes a familial connection to ʻĀina, the Hawaiian word for land that literally translates to "that which feeds." Unlike the settler colonial concept of land

[10] It is customary to refer to Hawaiian elders as Aunty or Uncle both endearingly and as a sign of respect.

[11] Her family has continued her legacy of teaching all who come through the Edith Kanakaʻole Foundation, Hālau o Kekuhi, and Lonoa Honua with the understanding of the importance of Hawaiian lifeways in and beyond Hawaiʻi. In the words of Dr. Candance Fujikane, Aunty Edith "wrote chants for everyone, knowing that all people, Kanaka and non-Kanaka, would have to participate in chanting for the healing of the earth."

[12] She was one of five women honored by the American Women Quarters Program in 2023 for their contributions to American history.

[13] Fresh poi is often sweet tasting, while fermented poi is sour. The old-timers loved fermented poi, which is very nutritious and a good source of probiotics and Vitamins A and B.

Figure 1. A Protect Kahoʻolawe ʻOhana Thank You Card Illustrated by Leimomi Apoliona
The kalo plant came to symbolize Aloha ʻĀina. "Kalo kanu o ka ʻĀina" means to plant taro of the land.

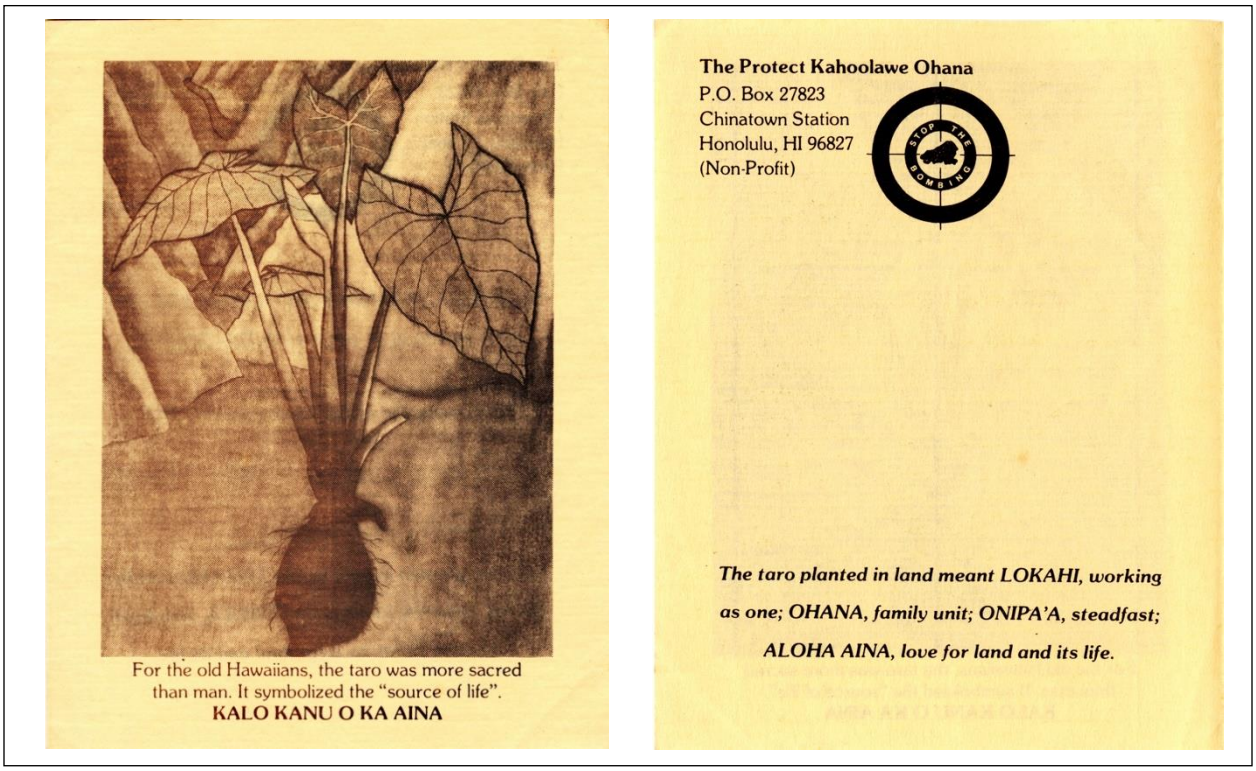


Image source: Leimomi Apoliona, personal records. The kalo plant was illustrated by Apoliona.

as territorial possession, ʻĀina is respected as an elder we descend from. The story of Hāloa is part of our creation story and a constant reminder of the genealogical relationship Kānaka Maoli have with ʻĀina, and the reciprocity that underscores our responsibility to mālama (care for) and aloha (love) ʻĀina, who feeds, clothes, and nourishes in return (Kameʻeleihiwa, 1992).

Hā-loa also breaks down to mean "long breath."[14] As Kanahele explains, "The idea of Hāloa is a psychological thing to me, initially, because it has to do with giving, not only breath, but giving life to the Hawaiians." In physical form, Hāloa is the taro plant we eat. In psychological form, Hāloa is the breath that "helps us to live the life that we have." It is the understanding that we have food and a future in Hawaiʻi.

The Abundance of Traditional Food Systems

Once a completely self-sufficient island nation, Hawaiʻi is now dangerously dependent on outside resources, importing roughly 90% of the food consumed on the islands (Loke & Leung, 2013; Office of Planning, Department of Business, Economic Development and Tourism [OP-DBEDT], 2012). As the most geographically isolated place on earth, with the nearest landmass of California 2,500 miles away, the lack of local food production is a serious concern, especially considering the risk of losing access to supplies to natural disaster, pandemic, and war (Hawaiʻi State Legislature, 2012).

For generational kalo farmers and Native Hawaiian rights activists who have fought for decades to restore water to traditional foodways, the solution to Hawaiʻi's food insecurity lies in the blueprint left by our ancestors. According to Tiare Lawrence regarding the return of streamflow to ancestral loʻi in Kahoma Valley, Lahaina, ʻĀina previously left dry by plantations for over a century, "When we talk about food security, we should talk

[14] Hā means "to breathe" and loa means "long."

Figure 2. Map of the Moku and *Ahupua'a* of O'ahu
Unlike Hawai'i's current state of food insecurity, every ahupua'a of every moku (district) of every island was self-sufficient.

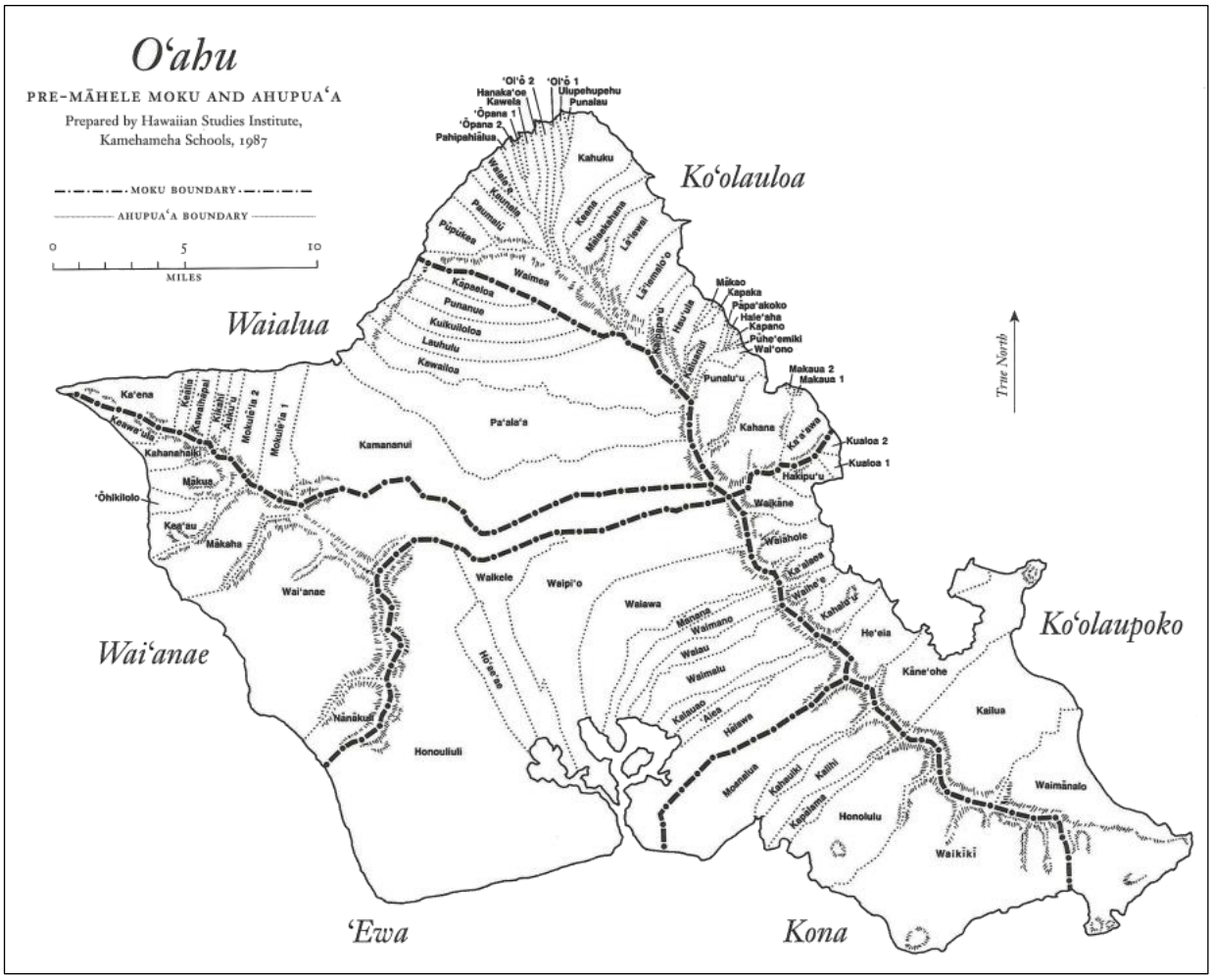


Image source: AWA Konohiki.

about restoration. The agriculture infrastructure created by our kūpuna still exists in many of our valleys. We just need to restore them" (Scheuer & Isaki, 2021, p. 175).

Using stones and flowing water, Native Hawaiians developed sophisticated modes of agriculture and aquaculture that could produce enough food to satisfy a population of 1.2 million people, roughly equivalent to the present-day population (Kurashima et al, 2019). Ahupua'a, regions of communal responsibility extending from the mountains to the ocean reefs, were loosely defined by watersheds (Figure 2). Freshwater that flowed from springs through rivers and streams was used to irrigate kalo, the Hawaiian gardener's "staff of life" (Handy et al., 1972, p. 63). An abundance of wai (freshwater) meant an abundance of food and ensured the future prosperity of land and people. Hence, the word waiwai signifies wealth.

Unique to Hawai'i, vast networks of wetland kalo cultivation covered windward valleys and flat lands.[15] Stone 'auwai (irrigation ditches) borrowed water from rivers and streams to flow through terraced lo'i kalo (taro fields). This water was

[15] While extensive areas of dryland taro were also grown on the mountainsides of Ka'u and Kona on Hawai'i island, wetland taro is most productive, and the "systematic culture of wet taro" is unique to Hawai'i (Handy et al., 1972, p. 16).

always returned to its natural course before entering the muliwai (mouth of the river) or loko iʻa (fishpond) at its base, illustrated in Appendix A. The continuous connection of cold water flowing from the mountains to the ocean maintained the hydrologic cycle, recharged groundwater aquifers, and provided a passageway for endemic species to travel upstream.[16] While most no longer receive water, the stone infrastructure of these systems, seen in Figure 3, remains a permanent feature of many landscapes often hidden beneath a thick overgrowth of invasive vegetation.

Figure 3. Loʻi Kalo at Nohoʻana Farm

Water manually held back during a storm is returned to these terraced loʻi. Hōkūao Pellegrino explained that without access to water, these loʻi within his family's kuleana land had been inactive and hidden beneath thick vegetation. Through litigation, the return of wai via Waikapū Stream was won in 2014—an ongoing struggle and hard-fought victory for Hui o Nā Wai ʻEhā.

Photo credit: Photo taken in Waikapū, Maui, in December 2022 by Puanani Apoliona-Brown.

The Hawaiian Constitution: Protecting Native Hawaiian Land and Water Rights

Laws that developed around traditional practice were codified by the 1839 Bill of Rights and the first constitution of the Hawaiian Kingdom in 1840. At that time, Lahaina was the capital of the Hawaiian Kingdom. The area, referred to in chants as Ka Malu ʻUlu o Lele (the shaded breadfruit grove of Lele), was an abundant wetland fed by the region's groundwater aquifer and perennial streams that carried freshwater from the mountains through a vast network of loʻi kalo, to the floodplains below. At the center of a 17-acre (6.9-hectare) pond called Mokuhinia was Mokuʻula, a small island and the royal residence of King Kamehameha III, Kauikeaouli (Manalo-Camp, 2023).

According to tradition, freshwater belonged to Kāneikawaiola (Kāne of the life-giving waters). Therefore, water, like sunlight, as "a source of life to land and man, was the possession of no man, even the aliʻi nui (high chief) or mōʻī (king)" (Handy et al., 1972, p. 63).[17] Instead, the aliʻi channeled their dominion as trustee, a concept enshrined in Hawaiʻi's first constitution[18] and remains at the heart of Hawaiʻi's current public trust doctrine, which articulates the State's kuleana (responsibility) as trustee (Haw. Const. art. XI, § 1).[19] It is the legal duty

[16] The continuous flow of freshwater into the ocean supports critical habitats for endemic species like ʻopae (Hawaiian shrimp) and ʻoʻopu (Hawaiian goby), and creates areas of brackish water that attract herbivous fish.

[17] The right to use water "depended entirely upon the use of it" (Handy et al., 1972, p. 61). For this reason, a "spirit of mutual dependence and helpfulness prevailed" (p. 61) and streamflow was used always with respect for downstream users and the health of the stream itself. If you "abandoned or neglected" (p. 64) the water, land, or fishing grounds you lost your right to it.

[18] The land and its resources from Hawaiʻi to Niʻihau were "not [the King's] private property. It belonged to the chiefs and people in common, of whom [the King] was the head, and had the management of landed property" (Haw. Const. of 1840 as cited in Sproat, 2009).

[19] "For the benefit of present and future generations, the State and its political subdivisions shall conserve and protect Hawaii's

to Aloha ʻĀina that prioritizes care of land and community above individual ownership and wealth (Sproat & Palau-McDonald, 2022).

While the Māhele of 1848 incorporated principles of private property ownership, it also ensured that all lands granted were "subject to the rights of Native tenants" who retained a "vested" interest in the land (MacKenzie & Sproat, 2017, pp. 503–505).[20] The Kuleana Act of 1850 offered hoaʻāina (Native tenants) the opportunity to obtain fee simple title to the lands they cultivated and resided upon.[21] Kuleana lands were some of the most productive lands and were often used for wetland kalo prior to the diversion of water. Even as parcels of land were being distributed to individuals, traditional and customary rights were protected, and the waters associated with those lands were not privatized. Section 7 of the Kuleana Act reaffirmed Native Hawaiian rights to continue traditional fishing and gathering practices throughout the ahupuaʻa for noncommercial use, and declared "springs of water, running water, and roads shall be free to all, on lands granted in fee simple" (MacKenzie & Sproat, 2017, p. 509; Haw. Rev. Stat. § 7-1).[22]

The Rise of King Sugar

Following the Māhele, large tracts of land fell into the hands of haole sugar planters and businessmen (MacLennan, 2014). This transfer coincided with an increased demand for Hawaiʻi sugar due to disruptions in American sugar caused by the Civil War.[23] The expansion of plantation agriculture on Hawaiʻi's dry leeward plains required vast quantities of water diverted in ditches from the kalo-growing windward valleys. All water licenses issued under the Kingdom permitting diversion included the express condition that "the existing rights of present tenants of said lands or occupiers along said streams" would not be "lessened or affected injuriously" (Maly & Maly, 2001, p. 444). It was not until after the illegal overthrow and annexation of Hawaiʻi that the number of ditches increased exponentially, tripling in the decades that followed as shown in Figure 4.

An understanding of the central role of water within Native Hawaiian foodways provides context for the extent of harm caused by its removal and the ongoing pattern of dispossession and displacement that continues today. Many wetland kalo growers, unable to sustain themselves on their land in their culture, were uprooted from their ancestral lands and forced into the cash economy to find work on plantations or in the growing cities. As the number of ditches increased, so did the number of Hawaiians living in crowded tenements of Honolulu where they were exposed to foreign diseases they lacked immunity to. From 1910 to 1920, the number of Hawaiians living in the city of Honolulu increased from 13,520 to 17,530 (McGregor, 1990). That same decade, the population of pure Hawaiians continued to decline from 26,040 to 23,720—less than 3% of the estimated population of 1 million prior to European arrival in 1778 (Stannard, 1989; U.S. Bureau of the Census, 1931).

Displacement, Food Insecurity, and the Thrust of Americanization

The structural process of settler colonial elimination involves the removal of Native people from the land. During the territorial years, the United States exerted "direct colonial rule" over the islands, setting in motion the systematic erasure of Hawaiian language, history, and cultural identity

natural beauty and all natural resources, including land, water, air, minerals and energy sources, and shall promote the development and utilization of these resources in a manner consistent with their conservation and in furtherance of the self-sufficiency of the State. All public natural resources are held in trust by the State for the benefit of the people" (Haw. Const. art. XI, § 1). This was added by the 1978 Constitutional Convention and election on November 7, 1978.

[20] Those lands included the 984,000 acres of Crown Lands and the 1.5 million acres of Government Lands that resulted from the Māhele to be "set apart forever to the chiefs and people of [the] Kingdom" (Privy Council Minutes, 1847, p. 282).

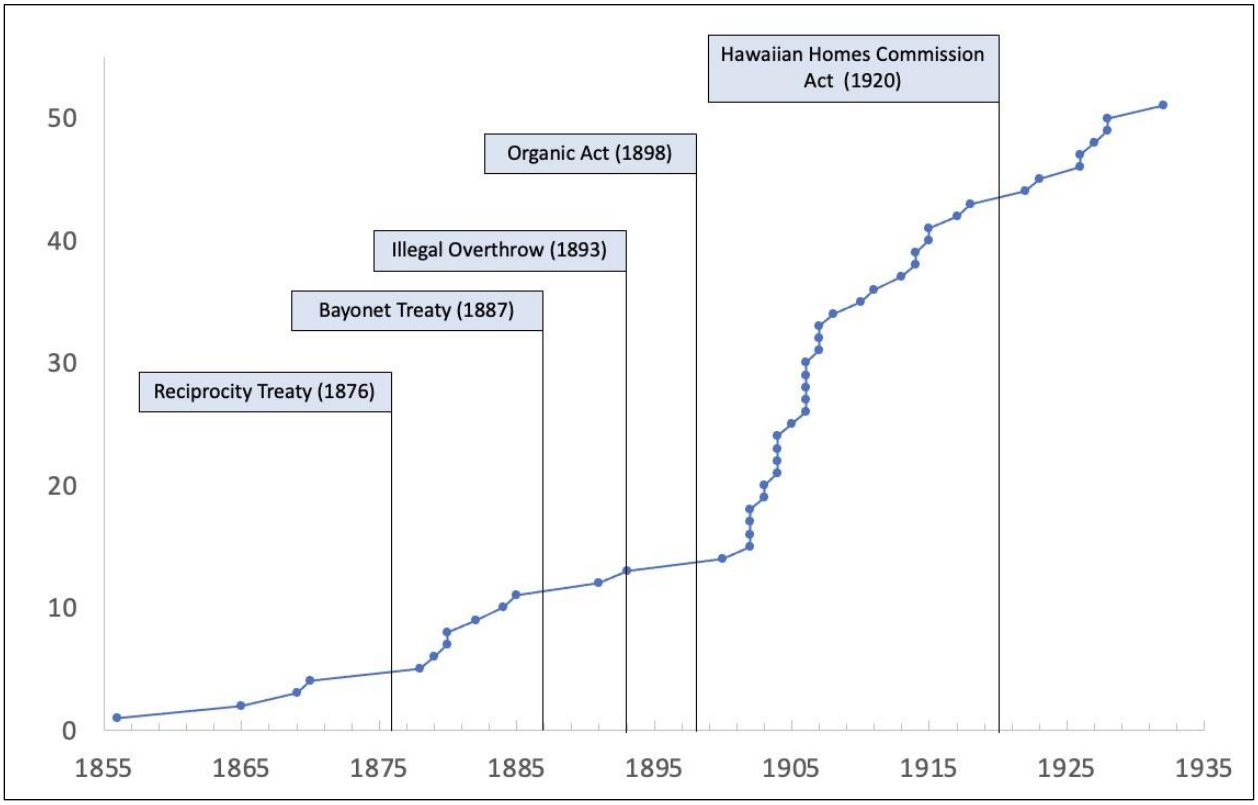
[21] Previously, those lands were held in trust by the konohiki, lesser chiefs who functioned as land and water managers.

[22] Kamehameha III added the amendment with concern for the value of land without the ability to "a little bit of land, even with an allodial title, if they were cut off from all other privileges, would be of very little value" (Privy Council Minutes, July 13, 1850, p. 713).

[23] As northern states were denied access to the sugar-producing South, there was an increase in demand for sugar from alternative sources like Hawaiʻi. Sugar increased from $0.0695/lb. in the 1850s to $0.1719/lb. by 1864 (Kent, 1993, p. 38).

Figure 4. Plantation Ditches

The number of plantation ditches tripled after the illegal overthrow and annexation of Hawai'i when American sugar planters took control of the government.



Graphic created by author using ditches listed by Carol Wilcox (1997, Table 4, pp. 64-67).

that carried into statehood in 1959 (Taira, 2021). And yet, Native Hawaiian belief systems and ceremonies, chants, hulas, and healing practices carried on—often protected by families with a continuous line of knowledge and within more remote Hawaiian enclaves.

Dr. Davianna McGregor (2007) uses the term cultural kīpuka to describe those places that were "bypassed by major historic forces of economic, political, and social change in Hawai'i" (p. 8). Kīpuka refers to the areas of land spared during a lava flow. In the same way kīpuka of old growth forest contain seeds for regeneration, the continuity of Hawaiian land-based knowledge and spiritual practices held within cultural kīpuka would prove invaluable to the regeneration of Hawaiian culture in the 1970s and the protection of Kaho'olawe.

The Protect Kaho'olawe 'Ohana was one movement within the groundswell of activism that took place in response to the forces of settler colonialism that accelerated in the wake of statehood in 1959. Conflicts over land and water went hand in hand with the work of cultural revitalization that rescued Hawaiian language, culture, and history from the brink of extinction. The first uprisings and acts of civil disobedience erupted in response to the wave of evictions that cleared rural communities to make way for new development and an influx of wealthy Americans.

While evictions had frequently occurred since the Organic Act of 1900 enabled the U.S. military to seize land through eminent domain, displacement accelerated rapidly with the economic transition to tourism. Statehood heralded a period of economic growth fueled by unchecked development. As plantation agriculture phased out, tourism phased in with land still largely controlled by the

"Big Five" plantation oligarchy (Kent, 1993).[24] Landlords partnered with American developers to urbanize Hawai'i, taking advantage of Hawai'i's tourism and development boom (Trask, 1987). In the decade that followed, the number of hotel rooms tripled, and the number of visitors increased fivefold, reaching 1.75 million visitors in 1970 (Southichack, 2007; McGregor 2010).

While tourism had been identified and promoted by the Territorial Government soon after the overthrow, the industry was now propelled by jet travel and the newfound disposable incomes enjoyed by Americans after World War II.[25] Concurrently, the post-war technological advances in food production and distribution, including the use of chemical fertilizers, pesticides, and preservatives, along with global trade, facilitated an increase in food imports to satisfy the new demand.

When sugar and pineapple production began to decline in 1966 due to rising labor costs and international competition, there was no government plan in place to convert those prime agricultural lands into local food production to meet Hawai'i's growing population (Southichack, 2007). Instead, land and water monopolized by plantation agriculture were repurposed, welcoming expensive residential subdivisions, luxury resorts, and exclusive golf communities. According to McGregor, recent director of the Ethnic Studies' Center for Oral History at the University of Hawai'i, "agricultural workers were being channeled to go work in hotels, and resources that had been going to agriculture, especially water resources, were now being redirected to resort development."

The future of Hawai'i's local food security was further compromised as the Indigenous infrastructure that had supported Native Hawaiian food systems was destroyed and redeveloped. For example, Maunalua—the area now known as Hawai'i Kai—was once home to the largest fishpond on all the islands, Keahupua o Maunalua or Kuapā fishpond. In the 1950s, rural communities were displaced, and the land was developed into expensive subdivisions. Now the site of the Hawai'i Kai Marina, Kuapā fishpond originally encompassed 523 acres (212 ha), and each acre produced 300–500 pounds (136–227 kg) of herbivorous fish annually (Kame'eleihiwa, 2016, p. 55).[26] Loko i'a produced protein "100 times more efficiently than the natural food chain" (Kelly, 1989, p. 84).

As development reached farther into the most remote areas, rural Hawaiian communities were "suddenly shaken by eviction notices and 'No Trespassing' signs" (Sanburn, 1991, p. 11). Simultaneously, young people, radicalized by the Vietnam War and movements for social justice on the continent, began to take action. McGregor, a founding member of the University of Hawai'i Ethnic Studies program that was heavily involved in these early protests, shared how her generation understood various movements at that time:

> When I got involved in Ethnic Studies, it was coming out of the Civil Rights Movement and the anti-war movement. And then, of course, our student movement. … The war was still going on and the racism was so evident upon Indigenous and Native peoples, and Asians especially. … Ethnic Studies was part of the whole consciousness of Native Hawaiian and "local" [people], in opposition to this Americanization, an assimilation that's really forced upon us, especially after statehood and with the whole shift toward an American tourist market.

[24] The Big Five refers to the companies (Alexander & Baldwin, Ltd., American Factors, Ltd., C. Brewer & Co., Ltd., Castle & Cooke, Ltd., and Theo. H. Davies & Co., Ltd.) that had their start in sugar and came to dominate Hawai'i's political and economic affairs. The plantation oligarchy refers to the intertwined families of missionary descendants who founded those companies and amassed their fortunes through the sugar industry (Cooper & Dawes, 1985).

[25] Many of the same missionary descendants who orchestrated the overthrow, like Lorrin A. Thurston, were strong advocates for tourism. Thurston headed the Hawaii Promotion Committee, established in 1903 (Mak, 2015).

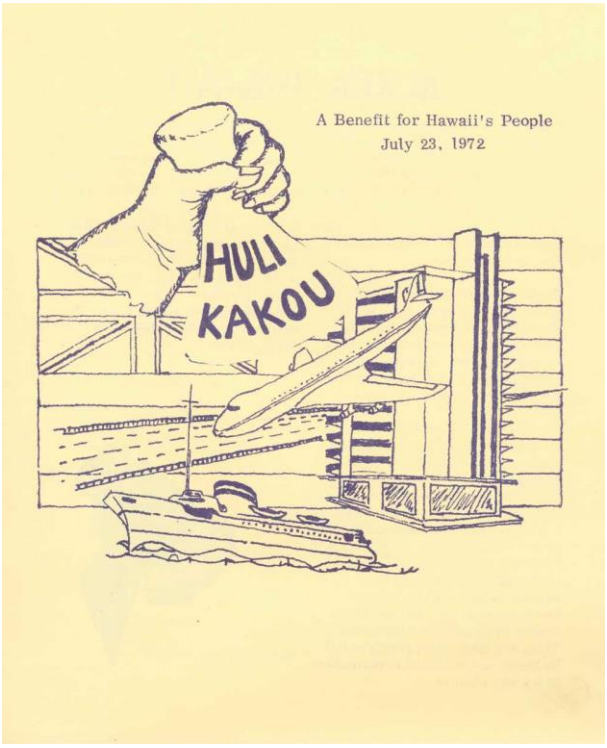
[26] Native Hawaiian historian Dr. Lilikalā Kame'eleihiwa explained in my interview with her that there were still 114 fishponds on O'ahu in 1881, more than all the other islands combined. These fishponds totaled 3,600 acres (1,500 ha), which means over a million pounds (454,000 kg) of fish were annually produced on O'ahu alone. This is why the island was known as an 'Āina momona, a land fat with food.

In 1971, Kalama Valley became the site of anti-eviction protests that sparked uprisings across the islands. The Bishop Estate, which controlled 10% of the islands, conducted the evictions. Founded by Princess Pauahi Bishop in 1884, the Estate's sole beneficiary was Kamehameha Schools, an institution originally intended for the education of Native Hawaiian children. Ironically, the Estate's board of trustees was dominated by Hawai'i's rich and powerful who were not of Native Hawaiian ancestry (Trask, 1987). In the 1950s, Bishop Estate partnered with Henry Kaiser to develop all of its land holdings on the east end of O'ahu through the Kaiser-owned Hawai'i Kai Development Company (Trask, 1987).

Many tenant farmers who refused to move had already been displaced from Hawai'i Kai and other valleys prior to Kalama Valley, the last undeveloped valley between the city of Honolulu and the windward side of O'ahu (Trask, 1987, p. 129).[27] A revolutionary and multi-ethnic confederacy of groups called Kōkua (Help) Hawai'i led the anti-eviction protests on O'ahu. Their slogan "Huli!" means to overturn or reverse. Huli is also the shoot of the kalo plant that is used for propagation. Seen in Figure 5, the image of an upheld poi pounder on the front of a 1972 pamphlet by Kōkua Hawai'i invokes political solidarity and the Hawaiian alternative in agricultural terms (Trask, 1987).

According to McGregor, "farming and self-sufficiency was one of the main issues" for Ethnic Studies. They saw the new development destroying important agricultural lands and fishponds as a major threat to the rural lifestyle Hawai'i had always known. It became clear that "a way of life was at stake, and protection of our island resources

Figure 5. 1972 Pamphlet by Kōkua Hawai'i
The words to Kaulana Na Pua (Famous are the Flowers) is found on page 7, calling on the seeds of resistance planted at the time of the overthrow. This song of protest written is also titled Mele 'Ai Pōhaku (Stone Eating Song) and He Lei no ka Poe Aloha 'Āina (A Lei for Those who Love the Land). (Kelly, 1972)



7

KAULANA NA PUA

Kaulana, nā pua a'o Hawai'i
Kupa'a mahope o ka 'āina
Hiki mai ka elele o ka loko 'ino
Palapala 'ānunu me ka
pākaha

Pane mai Hawai'i i moku o Keawe
Kōkua nā hono a'o Pi'ilani
Kākoʻo mai kaua'i o mano
Pa'apū me ke one
Kakuihewa

'A ole'a' kau i ka pūlima
Maluna o ka papa o ka enemi
Hoʻ ohui'āina ku'ai hewa
I ka pono silvia a'o ke kanaka

'A'ole mākou a'e minamina
I ka pu'ukala a ke
aupuni
Ua lawa mākou i ka pōhaku
I ka'ai kamaha'o o ka'āina

Mahope mākou o Lili'u-lani
A'loa'a' ē ka pono a ka
āina
(A kau how 'ia e ke kalanu)
Ha'ina 'ia e ke kalanu
Ha' ina 'ia mai ana ka puana
O ka po'e i aloha o ka'āina.

Famous are the children of Hawaii
Ever loyal to the land
When the evil-hearted messenger comes
With his greedy document of
Extortion

Hawaii land of Keawe answers
Pi'ilani's bays help
Mano's Kauai lends support
And so do the sands of
Kakuhihewa

No one will fix a signature
To the paper of the enemy
With its sins of annexation
And sale of native civil rights.

We do not value
The government's sums of
money
We are satisfied with the stones
Astonishing food of the land.

We pack Lili'u-lani
Who has won the rights of the
!and
(She will be crowned again)
Tell the story
Of the people who love their land.

[27] The territorial period had created several land-rich but capitol-poor landlords who teamed up with developers from America to take advantage of the development boom and urbanization of Hawai'i.

was at stake, and our ability to feed ourselves was at stake." In Figure 6, the demands of Kōkua Hawai'i reflect this concern for self-sufficiency.

While they were unable to save Kalama Valley, the network of organizers who met on the frontlines, facing bulldozers and police, would later spring into action at a moment's notice to stop future evictions. Their ongoing efforts inside and outside of the system would protect important food systems, including the ahupua'a of He'eia, now a center of land-based education and home to the largest working loko i'a on O'ahu, and the valleys of Waiāhole-Waikāne on the windward side of O'ahu, seen in Appendix B. The generational kalo growers and kuleana land holders of those valleys would also go on to win major legal battles for water rights using laws established by the Hawaiian Kingdom that were reaffirmed by the 1978 Constitutional Convention.

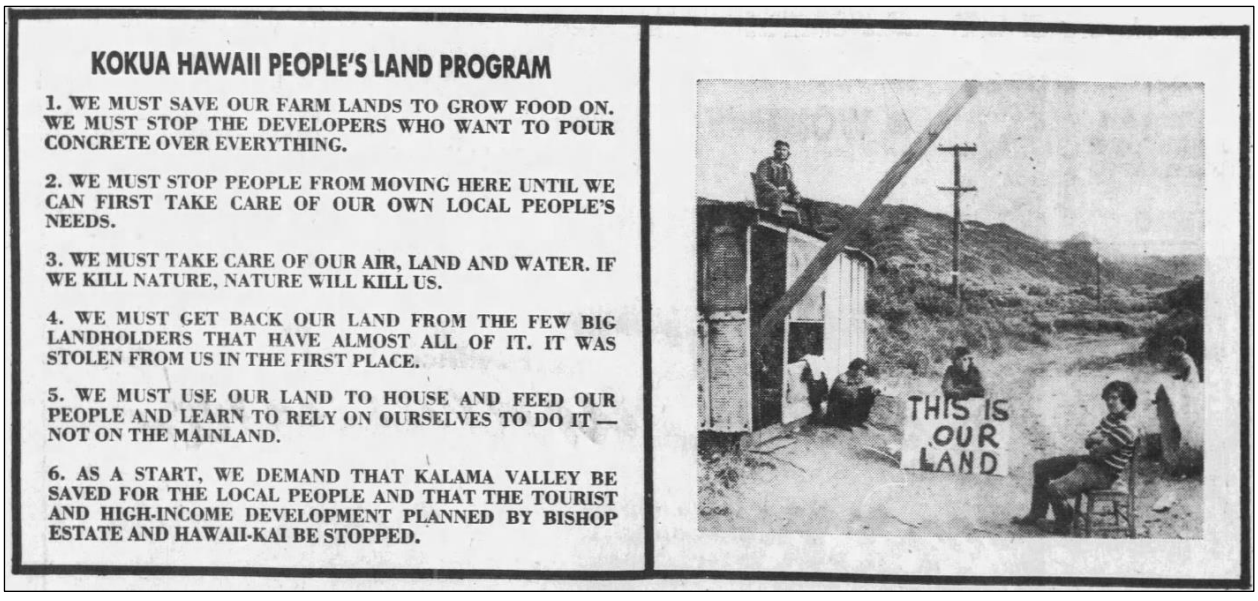
Huli in the Court: Restoring Indigenous Laws

Alongside the rapid phase of development and displacement, statehood also brought certain rights. During the territorial years, Hawaiians had no power, authority, or representation. As U.S. citizens, Hawai'i's residents could elect their governor, which in turn resulted in more representative judicial appointments. In 1966, William S. Richardson became the first Kanaka Maoli to hold the State of Hawai'i's highest judicial post. During his 16-year tenure as chief justice of the Hawai'i Supreme Court, he presided over several landmark decisions that recognized Hawai'i's unique cultural and legal history.

In 1973, the Supreme Court's *McBryde Sugar Co. v. Robinson* decision looked to the principles of traditional Hawaiian water usage to interpret the law, reversing territorial decisions that had treated water as private property (MacKenzie, 2010). When a conflict over water rights between two sugar companies was brought to the Hawai'i Supreme Court, the court ruled that neither of the companies owned the water. Instead, it was "reserved" by the State for the common good of the people of Hawai'i. The court ruled that private ownership of water was never conveyed with the fee simple title established by the Māhele and affirmed Section 7 of the Kuleana Act, currently Hawai'i Revised Statutes § 7-1, which protects traditional subsistence practices and ensures that springs and running water are free to all.

Figure 6. Demands of Kōkua Hawai'i

This full-page advertisement published in the *Hawai'i Star Advertiser* in 1971 listed the demands of Kōkua Hawai'i, which indicate a strong commitment to defending Hawai'I's land, water, and agricultural self-sufficiency.



Source: *Hawai'i Star Advertiser*, 1971.

While the laws protecting traditional and customary rights established by the Hawaiian Kingdom were overlooked during the Territorial years, they had survived due to the language of the Organic Act[28] and Admissions Act that allowed Kingdom Law to "continue in force."[29] In 2007, Chief Justice Richardson reflected on his approach as upholding Hawai'i's "unique legal system, a system of laws that was originally built on an ancient and traditional culture." A testament to the magnetic force of Aloha 'Āina, his court "set about returning control of interpreting the law to those with deep roots in and profound love for Hawai'i" (Richardson, 2007, as cited in Mackenzie, 2010, p. 6).[30]

Hui Alaloa and Access Rights

As people became knowledgeable about Hawaiian law, more protests emerged in the 1970s. On Moloka'i, Hui Alaloa (Group of the Long Trails) was formed by members who would later lead the Protect Kaho'olawe 'Ohana. Hui Alaloa sought to regain rights of access to alaloa, traditional trails encircling every island that protected subsistence hunting, fishing, and gathering rights under the first law of Kamehameha I, Kānāwai Māmalahoe: The Law of the Splintered Paddle (Hawai'i Legal Auxiliary, n.d.).

Learning about land rights and spending time with nā kūpuna, early members of Hui Alaloa began to realize how much had changed and discovered meaningful support for their cause. Walter Ritte, Jr. is a long-time activist and kupuna who continues to lead and inspire Indigenous rights efforts on several fronts.[31] Reflecting on how and why he became a founding member of Hui Alaloa prior to PKO, Ritte explained that he was constantly being arrested for hunting to feed his family—a course of action justified under Kānāwai Māmalahoe.

> That law was to protect people on the trails so that they could feed their families. It's like, "okay, that's what we're trying to do!" So the trails, the alaloa, was always open and you are protected and you could use those trails. And now we couldn't.

On July 4, 1975, Hui Alaloa organized its first protest, a Hawaiian rights demonstration in defense of Kānāwai Māmalahoe. The march attracted a lot of press as "Molokai demonstrators—including the aged, men, women and children—were challenging the powerful Molokai Ranch Co.'s policy of forbidding public right-of-way to the sea on old Hawaiian trails that crisscross its property" (Lueras, 1975, p. 3).

Ritte, seen in Figures 7 and 8, explained how the alaloa ran along the coastline to protect subsistence fishing and gathering, but Moloka'i Ranch had erected fences restricting access to beaches on Moloka'i's west end where it was planning a multi-million dollar resort complex. About a hundred demonstrators marched along the traditional trail, taking down the fences that restricted access. Although protestors were warned they would be arrested as police officers brought over on barges from Maui stood by, "we knew anything from the

[28] The Hawaiian Organic Act of 1900, which made Hawai'i a territory, declared "the laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this Act shall *continue in force*, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States."

[29] The Admission Act of 1959 made Hawai'i a state. "All Territorial laws in force in the Territory of Hawaii at the time of its admission into the Union shall *continue in force* in the State of Hawaii, except as modified or changed by this Act or by the constitution of the State, and shall be subject to repeal or amendment by the Legislature of the State of Hawai'i."

[30] He goes on to say, "The result can be found in the decisions of our Supreme Court beginning after Statehood … consistent with Hawaiian practice, our court held that the beaches were free to all, that access to the mountains and shoreline must be provided to the people, and that water resources could not be privately owned" (William S. Richardson, Spirit of Excellence Award Acceptance Speech at the ABA Spirit of Excellence Awards Luncheon, 2007, as cited in MacKenzie, 2010).

[31] Ritte continues to challenge Moloka'i Ranch with his involvement in community-led efforts to reclaim Hawaiian lands and waters. In 2019, he was one of the 38 kūpuna arrested for protecting sacred land on the frontline of Mauna Kea. Aa an environmental activist, Ritte has fought against the agrochemical industry's stronghold in Hawai'i and helped rally the visceral community uproar that halted the patenting and genetic engineering of three kalo varieties by the University of Hawai'i College of Tropical Agriculture and Human Resources (UH-CTAHR) in 2002.

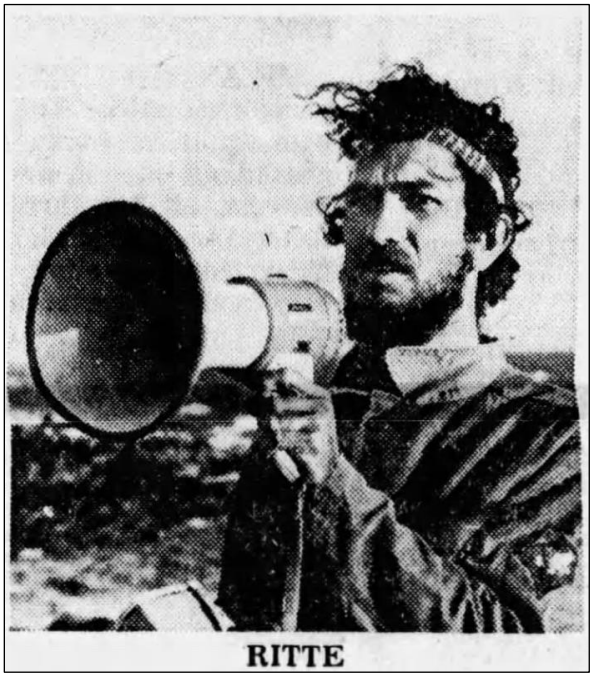
Figure 7. Walter Ritte, Jr., Founding Member of Hui Alaloa and Protect Kahoʻolawe ʻOhana
Photo taken at Keawanui Fishpond, Molokaʻi, in December 2022

Photo credit: Puanani Apoliona-Brown.

high watermark down was public."

Noa Emmett Auwae Aluli was a young doctor from Oʻahu and another founding member of Hui Alaloa and PKO. He had moved to Molokaʻi to research the impacts on Native Hawaiian health caused by the transition to tourism occurring on every island. At the protest, he told a reporter that in addition to having access to the beach, "the people of Molokai really need fishing areas, because seafood supplements their generally low incomes" (Lueras, 1975, p. 3). Upon reaching Kawākiu Beach, the march ended in an impressive display of the abundance of Molokaʻi, described in *The Honolulu Advertiser* as "one of the most-complete Hawaiian luaus this reporter has seen during some 12 years in the Islands" (Lueras, 1975, p. 3).

Figure 8. Walter Ritte, Jr., During the Hawaiian Rights Demonstration
Ritte was featured in the *Honolulu Advertiser* holding a megaphone on July 4, 1975.



Forging Native Rights Alliances In and Beyond Hawaiʻi

The young Native rights activists of the Hawaiian Renaissance frequently flew to neighboring islands to support each other's protests, fundraisers, and events, strengthening relationships between groups and their political analysis along the way. As questions surrounding Hawaiian land and sovereignty emerged, alliances were also made outside of Hawaiʻi as Kānaka Maoli organizers looked to the struggle for self-determination led by First Nations on the continent.

Stephen Kāneai Morse, seen in Figure 9, was a founding member of the Hawaiian Coalition of Native Claims (HCNC),[32] a legal advocacy group modeled after the Native American Rights Fund.[33] Morse spoke with me about his early involvement in Hui Alaloa's marches and PKO,

[32] HCNC is now the Native Hawaiian Legal Corporation, a legal advocacy group dedicated to the advancement and protection of Native Hawaiian rights, culture, and identity that has won the restoration of streamflow to kalo growers in East Maui, dewatered for over a century.
[33] According to Morse, NARF, led by John Echohawk, came to Hawaiʻi in 1974 to support Kānaka Maoli in starting something similar.

Figure 9. Stephen Kāneai Morse
Morse was interviewed at this farm in Waimānalo, Oʻahu, Hawaii, in December 2022.

Photo credit: Puanani Apoliona-Brown.

and his interest in the strategies of First Nations beyond Hawaiʻi.

Morse shared how it was HCNC's "legal research on Kahoʻolawe that led to it being the subject of our occupation." After letters and formal requests to join state officials on a monitoring tour of the island were repeatedly denied, a contingent of Native Hawaiians went to the 1975 National Congress of American Indians conference held in Portland, Oregon.

> We were really interested in finding out how the tribes interacted with government, both state and federal levels. We had no clue what we were doing, right? And we're talking about sovereignty, and we're talking about self-governance. But we had no idea what that all meant. So, little by little we learned from the tribes.

At the conference, they met members of the American Indian Movement who had recently occupied Alcatraz (1969–71) and Wounded Knee (1973). Their use of direct action to gain recognition of treaty rights helped shift federal policy toward self-determination, ending the period of termination that was in effect from 1953 to 1970.[34] Morse recalls, "So they're all saying, 'why don't you guys go occupy the island?'"

Kahoʻolawe: The First Landing

Kahoʻolawe is a small Hawaiian island about 6 miles (10 km) off the southwestern coast of Maui (see Appendix C). The island's original name, Kohemālamalama o Kanaloa, speaks to its importance. It is the only Hawaiian island named after one of the four major akua (deities), Kanaloa, the god of the ocean, and was used to teach the art of Polynesian navigation. Morse described how the whales returned every year to give birth in the channel between Kahoʻolawe and Maui because of the abundance of food found in those waters.

Considered nothing more than a barren rock by the United States, the island was sequestered by the Navy on December 8, 1941, when martial law was declared following the attack on Pearl Harbor (Kahoʻolawe Island Reserve Commission, n.d.). The sacred island of Kanaloa soon became known as "The Target Island" and was used as a bombing range for fifty years. In 1971, attacks on the island intensified when the U.S. began to sponsor the Rim of the Pacific (RIMPAC) exercises every two years, inviting its Pacific allies to collectively bombard Kahoʻolawe among other war games.

The first landing on Kahoʻolawe was originally organized to gain traction behind a Hawaiian Native Claims Settlement Act that had stalled in Congress, which sought land or monetary reparations for the U.S.'s involvement in the illegal overthrow of the sovereign Indigenous government of

[34] House concurrent resolution 108 (HCR-108) resulted in the termination of over 100 tribes. The U.S. walked away from its treaty responsibilities, resulting in the loss of over 1 million acres of Native land that was removed from its protected status.

the Hawaiian Kingdom.[35] Activists were called from organizations across Hawai'i, including Hui Alaloa and lawai'a (fishermen) from Maui who had interest in the fishing grounds surrounding Kaho'olawe. According to Aluli (1989), "We knew they needed Hawaiians who were fishermen and hunters, and Hawaiians who were into securing their so-called rights of access."

While dozens had taken boats at dawn from Ma'alaea Harbor on Maui, only nine reached the island, including Morse and leaders of Hui Alaloa. Aluli and Ritte broke away from the group and explored the island for two days before they were arrested by federal marshals. In an interview in 1989, Aluli recalled how the island revealed its cultural significance to them, "We weren't really into looking for archeological sites, but all of a sudden all these ko'as (shrines) and all these points just kind of came alive" (Aluli, 1989).

In witnessing the number of historic sites being used as targets, Ritte felt the bombing of the island was an attack on their history: "It's almost like they were blowing up our library. … If you're there long enough you realize that the island itself was dying. Not only blowing up our history, but they're killing the island."

As the two were airlifted from the island, they could see Kaho'olawe's red soil bleeding out into the ocean without vegetation to hold the land, and they felt it calling them to "a deeper commitment to protect this land" (Aluli, 1989).[36] Afterward, they met with Helm to develop their messaging and reason for "trespassing" on the island. According to Aluli who, with Helm, had been researching his great-grand-aunt Emma Nāwahī's involvement in Hui Aloha 'Āina at the turn of the century (Alegado, 2023),

> George was real clear. He says, "we gotta say it's Aloha 'Āina." It's the love of the land, it's the life of the land. It's that spirit, aloha, for the land. It's going back to the land. It's saving the land that's important. … This was the reason why Aloha 'Āina came alive. And this was the motivating force that, that really saw us directly and clearly as to what we had to do. (Aluli, 1989)

This was the start of the Protect Kaho'olawe 'Ohana. As the generation began to learn the truth of what happened to the Hawaiian nation, they recovered a history stolen from them along with their religion, language, and culture. Upon reaching Kaho'olawe, the young activists recognized something of themselves in the battered island, and they saw it as something worth saving. With the leadership of George Helm and the guidance of kupuna like Aunty Edith, the 'Ohana, seen in Figure 10, built upon the energy for revolutionary change of the 1970s to cultivate a movement for the protection of sacred land, grounded in Aloha 'Āina (see L. Apoliona quote, Appendix D). In 1994, title to Kaho'olawe was officially transferred from the Navy to the State of Hawai'i to be "held in trust" for the future "sovereign native Hawaiian entity" as recognized by the United States and the State of Hawai'i (Haw. Rev. Stat. 6K).[37]

PKO's work restored a sense of spiritual connection to 'Āina and brought public awareness to the injustices Native Hawaiians continued to suffer. Leimomi Apoliona's personal records and notes speak to the sense of hope that motivated them to action:

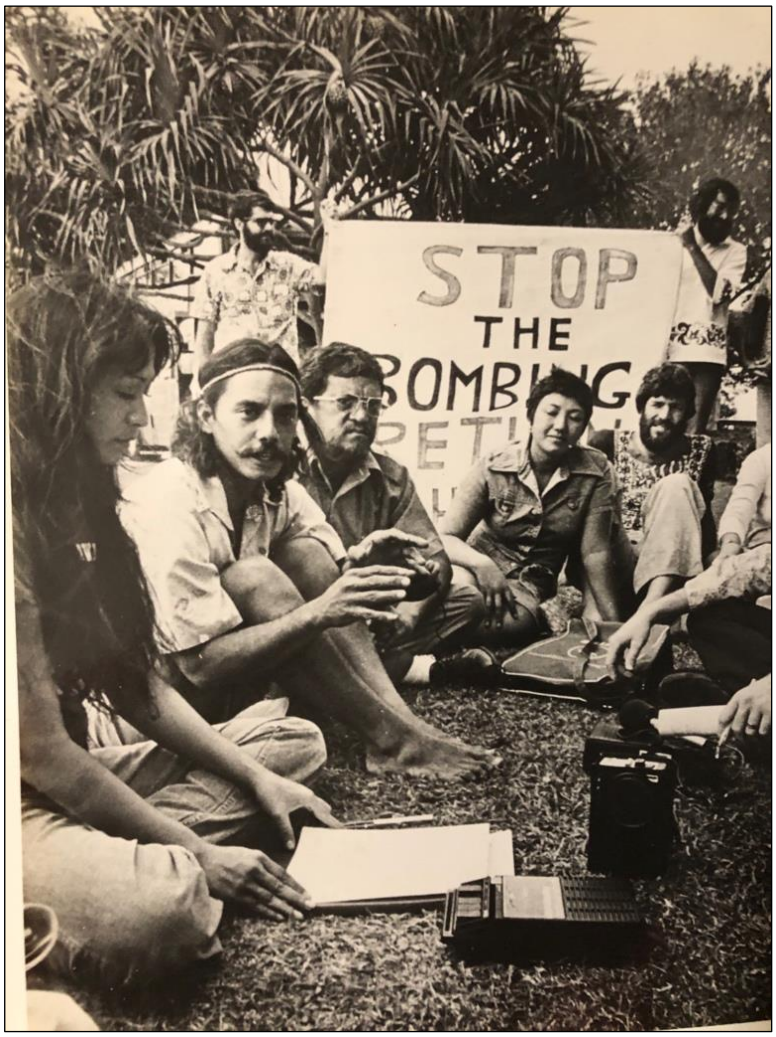
> We in the 'Ohana felt that by unifying the desecrations of Hawaiian culture and the lāhui (nation), into an ideal symbolized by

[35] Charles Kauluwehi Maxwell, a fisherman from Maui and president of the Aboriginal Lands of Hawaiian Ancestry (A.L.O.H.A.), organized the landing. With the support and guidance of the Cook Inlet Region Corporation, which had won major settlements in Alaska, A.L.O.H.A. investigated the issue of the Crown and Government Lands "ceded" to the U.S. by the Republic of Hawai'i in 1898 and fought for reparations.

[36] From the 1989 interview with Nā Maka o Ka 'Āina, Aluli explained: "What this island showed us at that time was that it was a very beautiful island, an island that was being destroyed. An island that was actually calling us deeper to a commitment … to motivate us to stop whatever destruction was happening."

[37] "Kaho'olawe shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawai'i" (Haw. Rev. Stat. § 6K).

Figure 10. Protect Kahoʻolawe ʻOhana (PKO) Press Conference at the Bishop Museum, January 31, 1977
Featured in the foreground are Leimomi Apoliona (left) and Dr. Emmett Aluli (right).



Source: *Honolulu Star-Bulletin* photo by Terry Luke provided by Leimomi Apoliona.

> Kahoʻolawe, we could help regenerate a new consciousness. The ideal was Aloha ʻĀina and the ʻOhana as an organizing principle. By attempting to save Kahoʻolawe, we could bring to the public consciousness the urgent need to save the still viable Hawaiian culture and race. In fact, we have the audacity to believe that we just may have something to teach the world. (Leimomi Apoliona, personal records, n.d.)

The 1978 Constitutional Convention: Restoring Native Law

By the late 1970s, Native Hawaiians were channeling protest into political action. The 1978 Constitutional Convention (Con-Con) exemplified the decade of change catalyzed by the resistance to Americanization and the reclamation of Native Hawaiian rights. While a proposal to "preserve and enhance the heritage and culture of the Hawaiian people and encourage continued support of Hawaiian traditions" (State of Hawaiʻi, 1972, pp. 517–518) was laughed off the floor at the Constitutional Convention held a decade prior (accoriding to an interview with John Waihe'e), the 1978 Con-Con marked a decisive shift in public consciousness as a result of the Hawaiian Renaissance.

In 1978, a delegate named Adelaide Keanuenueokalaninuiamamao "Frenchy" DeSoto from Waiʻanae, Oʻahu, channeled her experience with PKO into an agenda for bold change (Sanburn, 1991). According to former Hawaiʻi governor John Waiheʻe,[38] not only did Aunty Frenchy create and chair a Hawaiian Affairs Committee, she made the strategic decision to staff her office with young activists representing a range of Hawaiian rights issues.

An important proposal ratified by the convention was the State's reaffirmation of Native Hawaiian traditional and customary rights exercised for subsistence, cultural, and religious purposes (Const. Art. 12, § 7). The amendment brought added weight to laws of the Hawaiian Kingdom that already continued in force and remain critical to legal battles over water rights today. Significantly, the amendment applies to Native Hawaiians defined as lineal descendants of the original inhabitants of the islands, a definition

[38] A member of the first graduating class of the William S. Richardson School of Law at the University of Hawaiʻi and the first Native Hawaiian governor of the State of Hawaiʻi, Waiheʻe began his political career as a delegate to the 1978 Con-Con.

based on genealogy rather than blood quantum.[39] Because these rights protect kalo cultivation, which requires access to abundant streamflow, committee debates revealed ongoing tensions between Native Hawaiian rights and plantation interests, even as sugar and pineapple were phasing out (State of Hawai'i, 1980, p. 436).

All 34 proposed amendments to the State constitution passed in 1978. Constitutional amendments established the Office of Hawaiian Affairs to address the ongoing challenges of historical injustices to the Hawaiian people, restored 'ōlelo Hawai'i as an official language of the State, codified Māmalahoe Kānāwai as a symbol of the State's commitment to public safety, reaffirmed the protection of Native Hawaiian traditional and customary rights, and established a unique public trust doctrine grounded in Indigenous practice, requiring the protection and management of water for present and future generations (Haw. Const. art . XI, § 1; Haw. Const. art . XI, § 7). The Con-Con also mandated the establishment of an agency tasked with managing Hawai'i's water resources, which resulted in the creation of the Hawai'i Commission on Water Resource Management (CWRM) and the State Water Code in 1987. Every provision in the Hawaiian affairs package had its origin in the protests of the Hawaiian Renaissance.

The Ongoing Structures of Settler Colonial Occupation

Although the Protect Kaho'olawe 'Ohana was successful in stopping the bombing of Kaho'olawe, the U.S. military continues to bomb, occupy, and destroy sacred Hawaiian land.[40] The military occupies over 220,000 acres (89,000 ha) across the Hawaiian Islands—more than 5% of the total land area—and controls approximately 85,000 acres (34,400 ha) on O'ahu alone, nearly 25% of the island (Grandinetti, 2014; U.S. Indo-Pacific Command, 2021). Just weeks before my research began, 1,100 gallons (4,164 L) of firefighting foam containing PFAs (aka "forever chemicals") were released from the U.S. Navy's Red Hill Bulk Fuel Storage Facility on November 29, 2022. The leak compounded the 14,000 gallons (53,000 L) of petroleum jet fuel that had already leaked into O'ahu's sole source aquifer and contaminated the island's drinking water in November 2021.[41]

The Con-Con resulted in strong legal protections for the use of water for kalo cultivation in the Hawai'i State Constitution and Water Code, continually upheld in numerous court decisions. Furthermore, the State Water Code outlines the responsibilities of CWRM to prioritize public trust purposes over private commercial interests when balancing competing needs. And yet, commercial interests continue to wield tremendous power and influence over Hawai'i politics and economic priorities, resulting in ongoing conflicts.

According to a 2021 Maui water rates study, luxury hotels and resorts were charged the same water rates as single-family residents and less per thousand gallons for usage above 35,000 gallons (132,000 L) a month (Riker, 2022). To put this in perspective, Maui County Council Vice Chair Keani Rawlins-Fernandez explained how the Grand Wailea—which used nearly 500,000 gallons (1,900,000 L) of water a day[42] in FY 2020 (Riker, 2022)—incurs no penalty for excessive water consumption, while single-family households are penalized despite using only an average of 10,000 gallons (38,000 L) of water a month. Simultaneously, commercial enterprises have avoided the

[39] This is referring to the 50% blood quantum used in the Hawaiian Homes Commission Act of 1920. While blood quantum remains the criteria for the HHCA today, the protection of Native Hawaiian traditional and customary rights such as kalo cultivation applies to all lineal descendants of the original inhabitants of Hawai'i. The amendment protects "all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua'a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778" (Haw. Const. art. XII, § 7).

[40] Lands such as Pōhakuloa at the base of Maunakea on Hawai'i and Makua Valley on O'ahu continue to be used for live training exercises.

[41] According to a federal survey, the contaminated water system—which serves over 93,000 individuals—caused thousands to suffer acute health impacts related to petroleum contamination (Troeschel et al., 2022).

[42] According to Maui County documents, the Grand Wailea used a total of 172,340,000 gallons (652,000,000 L) of water in fiscal year 2020 (Riker, 2022).

harsh restrictions placed on local residents during droughts, an issue that brought national attention to Maui's water shortages and the impacts of overtourism in 2021 (Lipscomb, 2021). As the number of annual visitors to Hawai'i reached 9.2 million in 2022, conflicts over water earned Maui a place on Fodor's "No List" discouraging travel to the island (Fodor's Travel, 2022).

For decades, Maui has been at the forefront of legal battles to protect Hawai'i's precious freshwater resources and restore streamflow for kalo cultivation. In 2022, under the leadership of Deputy Director M. Kaleo Manuel, CWRM voted to designate Maui Komohana (West Maui) as a Surface and Ground Water Management Area, an unprecedented decision triggering greater oversight by the state in managing water resources. Respected by the community for his understanding of Hawai'i's unique water laws relating to the environment and Indigenous rights, Manuel cited diminished rainfall due to climate change as one cause for the designation.

On August 8, 2023, Maui's water crisis reached a new level of urgency as a horrific wildfire swept the historic town of Lahaina, killing over 100 people. With Hurricane Dora passing to the south and a high-pressure system to the north, the fire ripped through parched fields of invasive grasses left in the footprint of the sugar plantations that had surrounded Lahaina. The embers spread easily, fanned by 80 mph winds, leaving over 2,000 buildings destroyed and around 8,000 individuals displaced.

At the height of the fires, hoses ran dry as firefighters and individuals tried desperately to save their homes, leading to questions about Maui's water supply. For Native Hawaiian families who have fought for streamflow restoration since the closure of Pioneer Mill Company's sugar operations in 1999, this tragedy is easily traced to over a century of settler colonialism that transformed Lahaina from wetland to tinderbox through the diversion of streams and overexploitation groundwater aquifers.

In the days and weeks after the fires, the actions of government officials sent shockwaves through a community already reeling with overwhelming trauma and loss. On August 9, Governor Josh Green suspended the State Water Code[43] by emergency proclamation, threatening to undo years of hard work protecting minimum streamflow standards for kalo growers. On August 16, Manuel was reassigned following groundless accusations that he had delayed the release of stream water needed to fight fires—claims made by an executive at West Maui Land, a real estate development company (Corkery et al., 2023, para. 8).[44]

On September 19, 2023, hundreds of written and oral testimonies were brought to the monthly CWRM meeting, calling for the reinstatement of Manuel and the State Water Code. Over the course of 12 hours, CWRM heard testimony highlighting the ongoing struggle for water, the very real fear of displacement by outside interests in rebuilding Lahaina, and a distrust of the priorities of the state. In her testimony, kupuna Mialisa Otis spoke to the changes that she witnessed since her childhood in Lahaina, picking fruit along Front Street on her way to school:

> Our wai just came from everywhere. Going on the Pali (cliff), that's all you see. When there's rain, you see little streams coming down in every little crevice of land going through the Pali. We don't see that anymore because of the diversion and because of the diversion, we hurt. … The only way we can rebuild is water. … Wherever there is water, there is life, and we're not going anywhere. We're not going anywhere. (Hawaii Commission on Water Resource Management, 2023, 5:40)

[43] The Water Code (Hawai'i Revised Statutes chapter 174C) incorporates public trust principles in balancing public and private water interests and outlines the responsibilities and composition of the State Water Commission, "as well as its directives for appropriately managing ground and surface water" (Sproat, 2009, p. 9).

[44] In a press conference on August 14, 2023, Governor Josh Green declared, "there has been a great deal of water conflict on Maui for many years. … People have been fighting against the release of water to fight fires. I'II leave that to you to explore." The next day, an article was published insinuating that a delay in the release of water to fight fires was caused by an over deference to kalo growers, even as the vast majority of Maui's water flows toward resorts and private interests.

Conclusions and Further Research

My fieldwork was bookended by tragedies involving water that highlight how the same forces of settler colonial erasure that sparked protest during the Hawaiian Renaissance continue to this day. For Kānaka Maoli, the fight for water is part of the ongoing struggle for self-determination. Despite the State of Hawai'i's constitutional mandate to manage water as a public trust resource, to protect Native Hawaiian traditional and customary rights, and to ensure adequate streamflow for cultural and ecological purposes such as kalo cultivation, streams continue to run dry because they are diverted for commercial use (Sproat, 2011). While the harm caused by the military and tourism echoes a familiar refrain, what is even more constant lies is in the heart of the Hawaiian people and their unwavering commitment to Aloha 'Āina.

Sam Ka'ai, a respected kupuna and master carver, lost his life's work in the Lahaina fires. His collection of carvings and cultural artifacts from his voyages with the Hōkūle'a[45] was housed within the beloved Nā 'Aikāne o Maui Cultural Center, which burned to ashes along with a vast archive of ancient artifacts and historical pieces from the Hawaiian Kingdom. In the aftermath of the terrible destruction, Ka'ai dreamt of seeds. He saw the community planting traditional seeds and medicine in the ashes, and the return of kalo to the 'Āina (Ahia & Goodman, 2023).

As Lahaina looks ahead to how it will rebuild in the aftermath of the fire, its Native people are directed by a sense of purpose that extends beyond the present, to past and future generations. There is an urgent call for the return of water to Malu 'Ulu o Lele and for the future of Lahaina to be decided by community leaders, not land development companies. Steps forward should involve inventory and forecasting of the appurtenant water rights[46] within Maui Komohana, and better resourcing of CWRM to uphold its constitutional mandate. The restoration of the wetlands of Mokuhinia and the island of Moku'ula would be a powerful example of what is possible through Indigenous leadership and the restoration of traditional food systems.

In Hawai'i, the history of water is tied to colonial violence and power. It is also tied to Indigenous survivance, resurgence, and Native Hawaiian law. While Indigenous water rights are uniquely codified within the Hawai'i State Constitution due to Hawai'i's history as a sovereign and internationally recognized Indigenous nation, similar forms of Native land and water governance sustained traditional foodways and thriving communities for millennia prior to colonial invasion elsewhere. As water scarcity is fast becoming a global challenge (Jones et al., 2024), First Nations fighting to protect precious freshwater sources, remove dams, and restore streams are revealing a path forward grounded in the rights of nature, or rather a sense of kuleana to our non-human relatives. Future research that brings together Food Studies, Native Studies, and law would benefit by examining the intersection of Indigenous foodways, treaty rights, and environmental protection.

Acknowledgements and Dedication

Thank you to the First Nations Development Institute for its generous support. To my parents and everyone I interviewed for this project, mahalo for sharing your time, stories, and mana'o (thoughts) with me. It is a privilege to have had this chance both learn and share this history. A special thank you to Dr. Davianna McGregor for generously guiding and speaking with me while also mourning the loss of her life partner, our beloved Dr. Noa Emmett Aluli. Uncle Emmett was a dear friend of my mother's and a major inspiration for this project. To the generation who brought about the Hawaiian Renaissance, mahalo nui loa.

I dedicate this article to Dr. Noa Emmett Auwae Aluli, who joined the ranks of na 'aumākua (the ancestors) on November 30, 2022. A founding

[45] Sam Ka'ai carved the female and male ki'i—Kiha Wahine Ka Mo'o o Malu Ulu o Lele and Kāne o Hōkūle'a Ka Lani—that were lashed to the manu of the Hōkūle'a. The ki'i offered protection and guidance for the historic voyage in 1976, which marked the rebirth of the the Indigenous art of Polynesian navigation during the Hawaiian Renaissance.

[46] Appurtenant water rights of "kuleana and taro lands" are the rights of parcels of land that were cultivated, usually in kalo, at the time of the Māhele (Haw. Rev. Stat. §174C-101[d]). They have the highest level of protection under the law (Sproat, 2009, p. 10).

member of the Protect Kahoʻolawe ʻOhana and Hui Alaloa, Uncle Emmett dedicated his life to the lāhui and the protection of Kahoʻolawe.

"The health of the land is the health of our people is the health of our nation."
—Noa Emmett Aluli

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Appendix A. Lo‘i Kalo and Ahupua‘a

Figure A1. Traditional Lo‘I Kalo System and Water Use

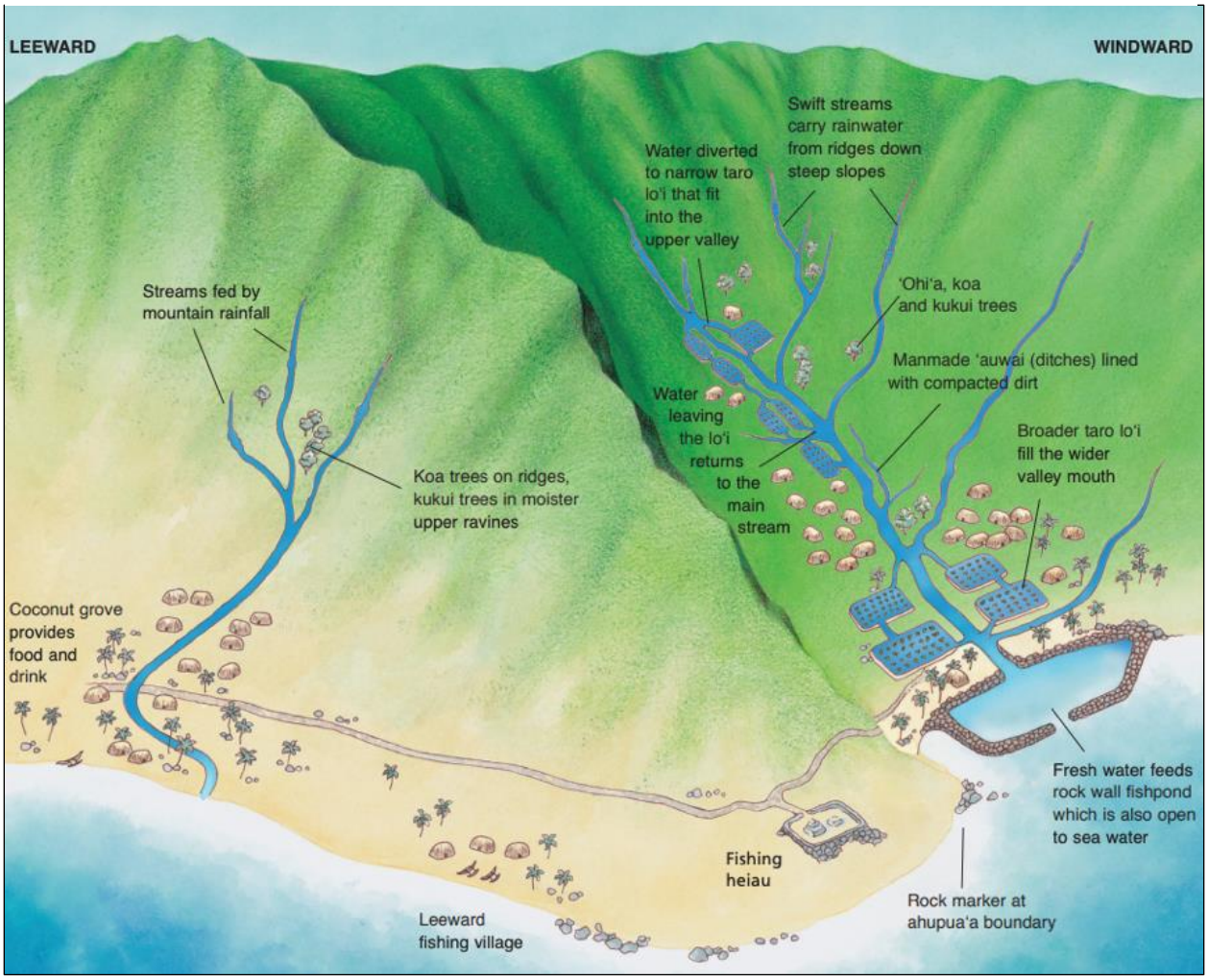
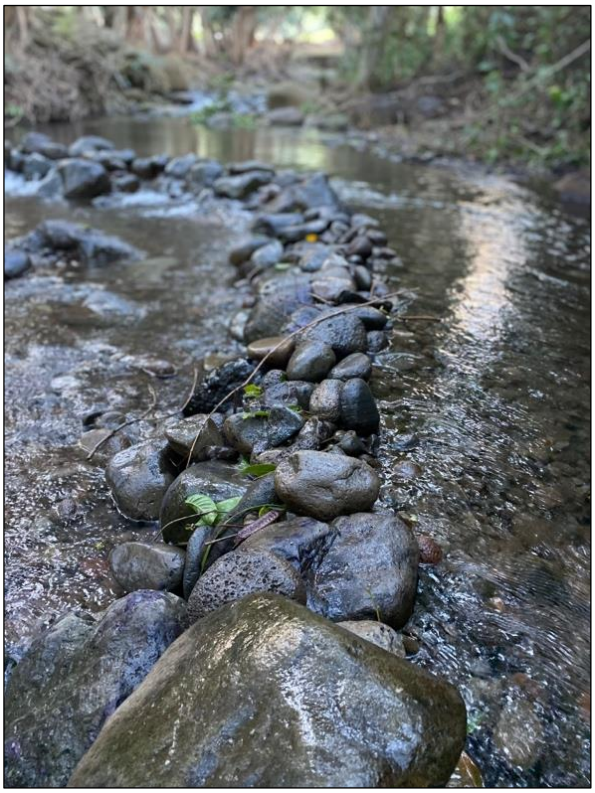


Image source: Hawai‘i Board of Water Supply.

Figure A2. Pictured with Leimomi Apoliona, Water Rights Activist Hōkūao Pellegrino Clears Debris from the ʻAuwai Upstream of Nohoʻana Farm After a Storm

The ʻauwai system is maintained by the community of kalo farmers who uses it. Waikapū Maui, December 2022.

Figure A3. Stacked Stones Change Water Levels, Directing Streamflow into ʻAuwai And Loʻi Kalo Fed by Waikapū Stream, Maui



Appendix B. Heʻeia & Waiāhole-Waikāne today

Figure B1. Loʻi Kalo at Kākoʻo ʻŌiwi in Heʻeia
Once slated for development, the ahupuaʻa of Heʻeia is now a center for land-based education due to community organizing and the efforts of groups like Ethnic Studies that had fought the Kalama Valley evictions.

Figure B2. The Water that Irrigates the Loʻi Kalo of Kākoʻo ʻŌiwi Flows into the Fishpond at Paepae o Heʻeia, the Largest Working Loko Iʻa on Oʻahu
Plans to have the area dredged and made into a marina were stopped by community resistance.

Figure B3. The First Legal Battles for Water Rights were Waged by the Kalo Farming Community of Waiāhole-Waikāne

Water rights veteran Charlie Reppun with his Iʻi at Waianu Farm. Waiāhole-Waikāne, January 2023.

Appendix C. Kahoʻolawe

Figure C1. Kahoʻolawe is a Small Hawaiian Island about 6 Miles off the Southwestern Coast of Maui
The island's original name is Kohemalamalama o Kanaloa.

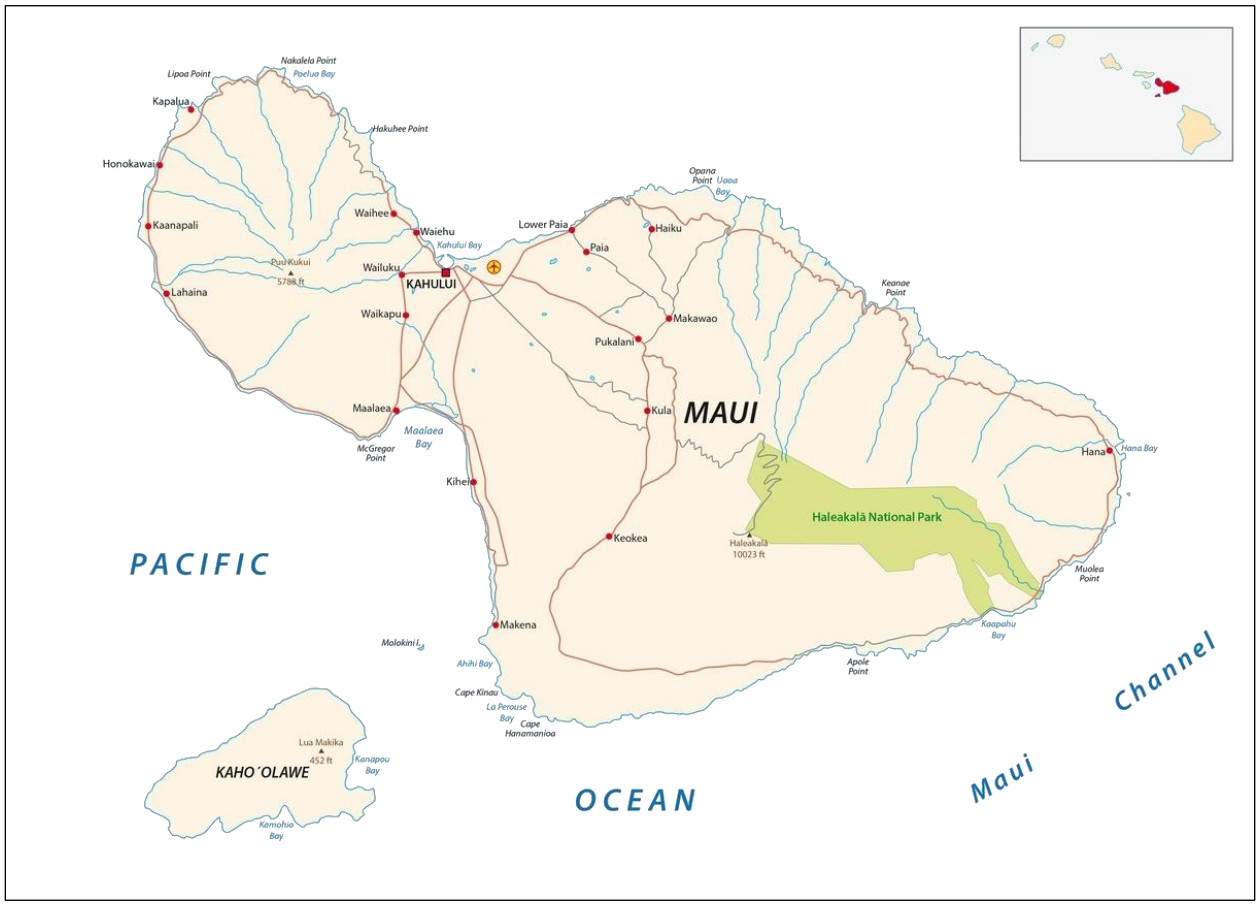


Image source: *Hawai'i Life*, 2017.

Appendix D. Quotes

"We didn't know nothing. I mean, we didn't know the language. We never know our history. We never know nothing. So, if the kūpuna wasn't talking to us, we don't know where we would've ended up."

—Walter Ritte, Jr., personal communication, 2022

"The prosperity which the military so greatly enhances, may not be worth the price. Fire power for Freedom and Aloha ʻĀina are both slogans: However, the former is negative in scope, whereas the latter is life-affirming and life is what Kahoʻolawe is all about."

—Leimomi Apoliona, May 21, 1977, *Honolulu Star Bulletin*, p. 9