

Recognizing Native Hawaiians: Reality Bites

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He aloha la, he aloha
 No ku'u **lāhui 'ōiwi**
 I ho'okahi pu'uwai
 Kūpa'a me ka lōkāhi

O my love and adoration
 For my native people,
 Be of one heart
 And stand firm with unity

Verse 2, "Ke Aloha 'Āina / Love for the Land" by Her Majesty Queen Lili'uokalani¹

The quest of Lāhui 'Ōiwi (Native Hawaiians) to re-establish sovereignty and self-determination began on January 16, 1893 when U.S. naval forces invaded Hawai'i in support of the illegal overthrow of the Hawaiian monarchy.² It is inspired by the thoughts of Queen Lili'uokalani expressed in her writings and songs (such as the one above), which continue to be read and performed from one generation to the next.³ It is reinforced by the historical and contemporary injustices reflected in the low incomes, high unemployment rates, disparate incarceration rates, the disproportionate reliance on public assistance and the poor health

¹ Unpublished Songs by Lili'uokalani, Newly Arranged, *The Queen's Songbook: Her Majesty Queen Lili'uokalanip*, 194.

² Kanaka 'Ōiwi and Kanaka Maoli are two Hawaiian language terms that mean Native Hawaiian. Kanaka means person. Maoli means native, indigenous, genuine, true and real. 'Ōiwi means native and can be literally translated as "of the ancestral bone." For Native Hawaiians, the bones of our ancestors and ourselves hold the essence of the soul and spirit of both predecessors and descendants and is the core of ancestral memory and knowledge passed on through the generations. In the 1878 and 1890 census of the Hawaiian Kingdom and Constitutional Government Kanaka Maoli referred to someone of full Hawaiian ancestry. 1897 petitions of Hawaiian nationalists to the U.S. Congress in opposition to the annexation of Hawai'i used the term "Hawaii Oihi" for Native Hawaiians. Lāhui eans nation, race, tribe, people. Lāhui 'Ōiwi as used by Queen Lili'uokalani means Native Hawaiian people and used in this article to be inclusive of anyone who is has Hawaiian ancestry.

³ see Liliuokalani, *Hawaii's Story by Hawaii's Queen* (Honolulu: Mutual Publishing, 1990)

conditions of Lāhui ‘Ōiwi in Hawai‘i. It is provoked by legal suits seeking to dismantle Hawaiian land trusts established by Lāhui ‘Ōiwi Ali‘i (chiefly rulers) and the U.S. Congress⁴ and suits seeking to extinguish other Lāhui ‘Ōiwi entitlements. It is has been nurtured by the renaissance of Lāhui ‘Ōiwi language, music, hula, navigation, and spiritual practices.

The right of sovereignty has been instilled in the hearts and minds of Lāhui ‘Ōiwi for generations. It is rooted in the traditional and customary exercise of an indigenous sovereignty that evolved over more than seventeen centuries preceding contact and commerce with European, American and Asian nation-states. The ‘Ōiwi word for sovereignty is “Ea” which also means “Life” and “Breath” signifying that sovereignty is essential to the survival of a people. Lāhui ‘Ōiwi have an inherent right of "Ea" - sovereignty.

Sovereignty and Governance

Sovereignty can be exercised and demonstrated in a number of forms - politically, culturally and spiritually - and on different levels - individually and collectively as a community and formally as a nation. Individually and as a community, Lāhui ‘Ōiwi have continued to exercise political, cultural and spiritual sovereignty for many generations and into the twenty-first century.

As a nation, sovereignty is most effectively exercised through a governing entity. For over seventeen centuries prior to European and American contact and through 1810, Lāhui ‘Ōiwi exercised sovereignty through the governance of Hawai‘i Ali‘i or Chiefs who ruled the Hawaiian archipelago. In 1810, one ruling chief, King Kamehameha I, established a monarchial form of government that ruled Hawai‘i through January 1893, when the Hawaiian monarchy was

⁴ The Ali‘i trusts are charitable trusts established by chiefly Hawaiian rulers for the benefit of Lāhui ‘Ōiwi and include Kamehameha Schools, Lunalilo Trust, Queen Lili‘uokalani Children's Center and Queen Emma Trust Estate. Native Hawaiians are also beneficiaries of two public trusts established by the U.S. Congress - Hawaiian Homelands (1921) and the Ceded Public Lands Trust (1959). Monies to benefit Lāhui ‘Ōiwi from the Ceded Public Lands Trust is given to the Office of Hawaiian Affairs. Suits include: Carroll v. Nakatani/Barrett v. State, 342 F.3d 934 (9th Cir. 2003); Arakaki v. Lingle, 477 F.3d 1088 (9th Cir. 2007).

overthrown. At that point, the governance of the Hawai‘i nation-state began to be distinct from that of the self-governance of Lāhui ‘Ōiwi or the Native Hawaiian indigenous nation.

From 1900 through 1959, the U.S. governed the multi-ethnic Hawai‘i nation-state as an incorporated territory, but it also established a special political and trust relationship with the Lāhui ‘Ōiwi community through federal legislation. On November 23, 1993, the U.S. Congress and the President of the United States issued a Joint Resolution of Apology to the Hawaiian people that included the following statements:

The indigenous Hawaiian people never directly relinquished their claims to sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum . . .

The Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions . . .

. . . apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States and the deprivation of the rights of Native Hawaiians to self-determination.⁵

While the Kingdom of Hawai‘i was comprised of a multi-ethnic citizenry, the apology was only offered to Lāhui ‘Ōiwi. This reflected the dual policy of the U.S. to govern the multi-ethnic Hawai‘i nation-state as a part of the U.S., while at the same time acknowledging the sovereignty of the Lāhui ‘Ōiwi as an indigenous people within the framework of U.S. laws and policies that apply to Native Americans, Native Alaskans, Eskimos and Aleuts.

Two Entities, Two Kinds of Status, Two Movements

The overthrow of the Hawaiian Kingdom in 1893, together with the dual governance policy of the U.S. and demographic changes that reduced Lāhui ‘Ōiwi to twenty percent (20%) Hawai‘i's resident population by the 21st century has resulted in the existence of two sovereign

⁵ *Pub. L. No. 103-150, 107 Stat. 1510 (1993)* Joint Resolution to Acknowledge the 100th Anniversary of the January 17, 1893 Overthrow of the Kingdom of Hawai‘i.

entities. One entity is Lāhui ‘Ōiwi, the Native Hawaiian indigenous nation and the other entity is Aupuni Hawai‘i, the multi-ethnic Hawai‘i nation-state. Both have the inherent right of sovereignty and the right to exercise this sovereignty through its own government. Neither has re-established a government that is recognized at the state, national or international level. This political condition has given rise to two distinct movements for sovereignty and self-determination in Hawai‘i.

One movement seeks to re-establish the government of Lāhui ‘Ōiwi (Native Hawaiian indigenous nation) and define a government-to-government relationship with the U.S. government similar to that of other indigenous peoples. The second movement seeks to re-establish the government of Aupuni Hawai‘i the (multi-ethnic Hawai‘i nation-state) separate from the U.S. nation-state. Both movements are rooted in the unique cultural and political history of Hawai‘i; lay claim to the national lands of the Hawaiian Kingdom currently held by the governments of the U.S. and State of Hawai‘i; have met challenges and obstacles; and are pursuing distinct political strategies.

This article explores the evolution of these two distinct sovereign entities - Lāhui ‘Ōiwi (Native Hawaiian indigenous nation) and ‘Aupuni Hawai‘i (multi-ethnic Hawai‘i nation-state). At the present, the dominant narrative about the Lāhui ‘Ōiwi movements for sovereignty and independence has represented these two entities as one Hawaiian nation that has two choices for governance - to become a domestic dependent nation within the U.S. similar to Native Americans OR to seek total independence from the U.S. nation-state. A subnarrative for this conflated Hawaiian nation model proposes a two-stage process to achieve sovereignty and independence - first become a domestic dependent nation and then work toward total independence.

In this article, I outline how the governance of Lāhui ‘Ōiwi and ‘Aupuni Hawai‘i were one and the same for centuries. I then describe how the composition and interests of these two entities began to grow apart once foreign settler interests gained influence within ‘Aupuni

Hawai‘i. I identify the point at which the two entities became distinct and describe the social and political processes which reinforced their distinctiveness.⁶ Finally, I discuss the distinct strategies being considered for each entity to achieve sovereignty; the obstacles and challenges and anticipated developments. As I present a new perspective on a politically contentious subject, I hope that this article will stimulate discussion and debate that can yield new insights regarding the quest for Lāhui ‘Ōiwi sovereignty.

Common Roots

Lāhui ‘Ōiwi are the indigenous people of Hawai‘i who developed the unique culture, language, economy, and system of political organization of Ka Pae ‘Āina Hawai‘i (Hawaiian Archipelago). Linguistic, genealogical, and archaeological evidence places the development of this society in Hawai‘i, as being distinct from other Polynesian islands by A.D. 600. By approximately A.D. 1000, ali‘i or chiefs emerged as the rulers in every district on each island. They undertook the responsibility of organizing the ‘ohana or extended families of the maka‘āinana (common people) to develop an infrastructure of irrigation networks, roads and fishponds. This enabled the intensification of the production of food and basic necessities to support a rapidly expanding population.

By A.D. 1200 the district chiefs formed ‘aha ali‘i or a council of chiefs on each island and by 1500, the ‘aha ali‘i councils on each island selected an Ali‘i Nui or High Chief to rule. While there are eight (8) major inhabited Hawaiian islands, from 1500 through the establishment of a central government in 1810, the islands were divided into and ruled as four (4) major chiefdoms - Hawai‘i Island, Maui Nui (islands of Maui, Lāna‘i, Moloka‘i and Kaho‘olawe), O‘ahu, and Kaua‘i (Kaua‘i and Ni‘ihau).

By 1795, Kamehameha I, the Ali‘i Nui of Hawai‘i Island, defeated the chiefs of Maui Nui and O‘ahu and controlled all of the islands except Kaua‘i and Ni‘ihau. In 1810, Kaumuali‘i,

⁶ This article is based upon a larger manuscript, to be published, that is written by the author in conjunction with Melody Kapilialoha Mackenzie, Professor and Director at the Center of Excellence in Native Hawaiian Law at the University of Hawai‘i at Mānoa.

the Ali‘i Nui of Kaua‘i peacefully agreed to accept the governance of Kamehameha I and Aupuni Hawai‘i became a monarchy that ruled a central government for all of the islands.

In 1840 King Kamehameha III transformed Aupuni Hawai‘i into a constitutional monarchy.⁷ The Hawaiian Kingdom and Constitutional Monarchy was formally recognized as an independent government and entered into treaties and received formal recognition as a sovereign, independent nation from nearly every major world power, following the lead of the U.S., Great Britain and France.⁸ This constitutional monarchy was the government of both the Lāhui ‘Ōiwi and Aupuni Hawai‘i through January 17, 1893.

Branching Out in Different Directions

Discernible strands in the evolution of Lāhui ‘Ōiwi as a Lāhui (nation formation) distinct from the Hawai‘i nation-state began to form in the 1840's. During this era, King Kamehameha III and the Council of Chiefs began to focus on protecting the integrity of the government of Aupuni Hawai‘i (Hawai‘i nation-state) from increasing demands of foreign residents and threats to its independence from foreign governments. Concessions were granted, for example, to French residents to prevent the take over of Hawai‘i by French captain La Place in 1839.⁹ The adoption of a constitution in 1840 laid the groundwork for Hawai‘i to gain

⁷ Carolyn Kehaunani Cachola Abad, *The Evolution of Hawaiian Socio-Political Complexity: An Analysis of Hawaiian Oral Traditions*, (Unpublished PhD Dissertation in Anthropology, University of Hawai‘i, Mānoa, 2000) and Samuel Mānaiakalani Kamakau, *Ruling Chiefs of Hawaii* (Honolulu: Kamehameha Schools Press, 1961)

⁸ Treaty with Hawaii on Friendship, Commerce and Navigation, 9 Stat. 977 (1850); Convention Between the United States and His Majesty the King of the Hawaiian Islands, 19 Stat. 625 (1875); Supplementary Convention Between the United States of America and His Majesty the King of the Hawaiian Islands to Limit the Duration of the Convention Respecting Commercial Reciprocity Concluded January 30, 1875, 25 Stat. 1399 (1884). The treaties entered into by the Hawaiian Kingdom included the following countries: Austria-Hungary (June 18, 1875), Belgium (Oct. 4, 1862), Denmark (Oct. 19, 1846), Japan (Aug. 19, 1870), Portugal (May 5, 1882), Italy (July 22, 1863), The Netherlands (Oct. 14, 1862), Russia (June 19, 1869), Switzerland (July 20, 1864), Spain (Oct. 29, 1863) and Sweden (July 1, 1852).

⁹ Ralph S. Kuykendall, *The Hawaiian Kingdom, Vol I: 1778-1854 Foundation and Transformation* (Honolulu: Univ. of Hawaii Press, 1938),

diplomatic recognition from other nations, but it also provided the opening for foreign settlers to gain political influence within Aupuni Hawai‘i. Foreign settlers were allowed to become naturalized citizens, to vote, and to hold positions in the government. Settlers began to assume key appointive positions in the government; were appointed by the King to the House of Nobles; and were elected to the House of Representatives. From 1842 to 1880, out of a total of 34 different men who held cabinet positions, 28 were Europeans or Americans and only six were Hawaiian or part-Hawaiian. Throughout this same period Caucasians comprised twenty-eight percent (28%) of the Legislature although they made up only seven percent (7%) of the population.¹⁰ Aupuni Hawai‘i was no longer comprised of just Lāhui ‘Ōiwi. It became a multi-ethnic nation-state representative of both settler and Lāhui ‘Ōiwi interests.

Lāhui ‘Ōiwi seeking to protect the land and natural resources for subsistence of the people and to protect their cultural customs and practices coalesced when necessary, through ad hoc or temporary organizations to express concern over the conduct of the King and his Council of Chiefs. For example, 5,790 Lāhui ‘Ōiwi from Maui, Lāna‘i, Moloka‘i and Hawai‘i sent petitions to the King and the legislature in 1845 to preserve the traditional land system, not allow foreigners to become naturalized citizens; not let foreigners own land in Hawai‘i; and not appoint foreigners to government positions.¹¹

The distinction between the interests of Lāhui ‘Ōiwi and Aupuni Hawai‘i grew more apparent when the government pursued a reciprocal trade treaty with the United States. A nationalist movement calling themselves "Hawai‘i for the Hawaiians" organized against the

¹⁰ Davianna McGregor-Alegado, *Hawaiian Resistance: 1887-1889* (Unpublished M.A. Thesis, Univ. of Hawai‘i, 1979), p. 5. In 1880, King David Kalākaua adopted the policy of appointing Hawaiians to fill cabinet level positions.

¹¹ Davianna McGregor-Alegado, "Voices of Today Echo Voices of the Past" in Dana Naone Hall, *Mālama Hawaiian Land and Water* (Honolulu: Bamboo Ridge Press, 1985). Also in Lilikalā Kame‘eleihiwa, *Native Land and Foreign Desires: Pehea Lā e Pono ‘Ai?* (Honolulu: Bishop Museum Press, 1992)

treaty. The movement persisted and grew after the treaty was consummated and implemented. The Reciprocity Treaty stimulated an unprecedented growth of the sugar industry and Hawai'i's economy. Between 1875 and 1882, 38 new plantations were opened on 20,000 acres of land through the work of 40,000 contract laborers who were imported to Hawai'i.¹² The displacement of Native Hawaiians from their traditional lands increased as the cultivation of sugar increased. By 1890, Hawaiians comprised only forty-five percent (45%) of the population, due to the increase of immigrant laborers.¹³

In 1893, U.S. Commissioner James Blount in his report on the conditions that led up to the illegal overthrow of the Hawaiian monarchy, characterized the Reciprocity Treaty as follows:

From it [the Reciprocity Treaty] there came to the islands an intoxicating increase of wealth, a new labor system, an Asiatic population, an alienation between the native and white race, an impoverishment of the former, an enrichment of the latter, and the many so-called revolutions, which are the foundation for the opinion that stable government can not be maintained.¹⁴

By 1886, nine-tenths of Hawai'i's exports were sold to the U.S. and eight-tenths of Hawai'i's imports came from the U.S.¹⁵ The stage was set for the settler interests to take control of Aupuni Hawai'i and seek annexation by the U.S.

¹² Merze Tate, *The United States and the Hawaiian Kingdom: A Political History* (New Haven: Yale Univ. Press, 1968). U.S. Department of State, *Papers Relating to Mission of James H. Blount, United States Commissioner to the Hawaiian Islands*. (Washington, D.C.: U.S. Govt. Printing office, 1893) *President's Message*, p. 105; *Affairs in Hawaii*, p. 571. U.S. House of Representatives, 53rd Congress 2d Session, Ex. Doc. No. 47, *President's Message Relating to the Hawaiian Islands*, December 18, 1893 (Washington, D.C.: U.S. Government Printing Office, 1893). U.S. House of Representatives, 53rd Congress, 3d Session, Ex. Doc. No. 1, Part 1, App. II, *Foreign Relations of the United States 1894, Affairs in Hawaii* (Washington: Government Printing Office, 1895) (hereinafter *Affairs in Hawaii*), available at <http://libweb.hawaii.edu/digicoll/annexation/blount.html> (last viewed August 1, 2014)

¹³ Census of the Hawaiian Islands, 1890.

¹⁴ *Id.*

¹⁵ Kalākaua, *The Legends and Myths of Hawaii*, pp. 63-64; William Adam Russ, Jr. *The Hawaiian Revolution, 1893 - 1894* (Selinsgrove, PA: Susquehanna Univ. Press, 1959).

When the U.S.-Hawai‘i Reciprocity Treaty of 1875 expired, the U.S. Congress demanded exclusive use of and control over Pu‘uloa (Pearl Harbor) as a condition of renewing the treaty. King Kalākaua refused. American planters and foreign business interests formed the Hawaiian League, in alliance with the all-Caucasian 500-man volunteer militia of the Hawaiian Kingdom called the Honolulu Rifles. Together, these groups carried out a coup d’etat - forcing King Kalākaua to accept a Constitution that became known as the “Bayonet Constitution.”¹⁶ The Bayonet Constitution took the executive power away from the King and transferred it to the cabinet. The King was forced to dismiss his own cabinet members and select men chosen by the Hawaiian League. The constitution enfranchised American and European settlers and disenfranchised all Asians.¹⁷ Although King Kalākaua continued to reign as monarch, with all of the executive power in the hands of the cabinet, the white American and European settlers controlled Aupuni Hawai‘i.

Once in power, the cabinet voted to turn over exclusive use of Pearl Harbor (Pu‘uloa) to the U.S. government in return for the renewal of the U.S.-Hawai‘i Reciprocity Treaty, and the King reluctantly signed the new treaty.¹⁸

The Reform Government, as it was called, did not represent the interests of Lāhui ‘Ōiwi. Lāhui ‘Ōiwi nationalists realized that they had to organize politically to protect and assert their interests. Immediately, they organized mass meetings, circulated petitions and sent delegations to the King asking him to abrogate the “Bayonet Constitution” and dismiss the cabinet. These efforts failed.¹⁹

¹⁶ Jon Van Dyke, *Who Owns the Crown Lands of Hawai‘i?* (Honolulu: Univ. of Hawai‘i Press, 2008), pp. 120-124.

¹⁷ Voting privileges were extended to American and European males *regardless* of citizenship. 1887 Constitution of the Hawaiian Kingdom.

¹⁸ Van Dyke, *Crown Lands*, pp. 124-128.

¹⁹ Queen Lili‘uokalani Diary, January 16, 17, 18, 1888; Cabinet Meetings 1887-1890 entry for January 18, 1888; Lorrin Thurston, *Memoirs of the Hawaiian Revolution* (Honolulu: Advertiser Publishing Co., Ltd, 1936), pp. 180-183; "Reply of Hon. R.W. Wilcox to Statements of Minister

Lāhui ‘Ōiwi took up arms, in 1889, to directly seize back control of Aupuni Hawai‘i from the white settlers. Named for its leader, the Wilcox Rebellion was suppressed within eighteen hours by the Reform Government.²⁰ Following the failure of the rebellion, Lāhui ‘Ōiwi organized the Hui Kālai‘āina (Hawaiian Political Association) to contend for control of Aupuni Hawai‘i through the legislature. The Hui Kālai‘āina persisted as the primary political organization of Lāhui ‘Ōiwi into the early 20th century and represented an early form of self-governance.²¹

In 1891, when Lili‘uokalani succeeded her brother to the throne and took her position as Queen, the Hui Kālai‘āina launched a massive petition drive appealing to the Queen to promulgate a new constitution. They succeeded in getting 6,500 registered voters, two-thirds of all registered voters, to sign. The Queen felt both compelled and empowered to abrogate the 1887 Constitution in favor of a new constitution that would restore her power as the chief executive of the government.²² Lāhui ‘Ōiwi now had a chance to regain control of Aupuni Hawai‘i. However, the white settlers were determined to control Aupuni Hawai‘i and sought annexation to the U.S. to advance their own economic interests.

Hawai‘i and the U.S. Government

On January 17, 1893 American merchants, sugar planters and missionary descendants, with the backing of the U.S. government and the landing of U.S. naval forces (on January 16, 1893), proclaimed that a Provisional Government was in control of the Hawaiian Islands.

Thurston Before the Hawaiian Legislative Assembly," June 10, 1890 (Honolulu: Hawaiian Gazette Steam Print, 1890.)

²⁰ Eight Native Hawaiians nationalists were killed, 12 wounded, and 70 arrested. Those nationalists charged with treason were subsequently acquitted by all-Native Hawaiian juries. McGregor-Alegado, *Hawaiian Resistance, 1887-1889*, pp. 76-107.

²¹ David William Earle, *Coalition Politics in Hawai‘i - 1887 - 90: Hui Kālai‘āina and the Mechanics and Workingmen’s Political Protective Union* (Unpublished Master’s Thesis, University of Hawai‘i, Mānoa, December 1993.), p. 75.

²² Queen Liliuokalani, *Hawaii’s Story by Hawaii’s Queen* (Honolulu: Mutual Publishing, 1990), p. 231.

Lāhui ‘Ōiwi immediately organized to vigorously protest the overthrow and the proposed U.S. annexation of Hawai‘i. Mass meetings were held, rallies organized, and petitions were circulated. Political organizations and groups already in existence on every island, such as the Hui Kālai‘āina and the newly formed Hui Aloha ‘Āina (Hawaiian Patriotic League), advocated support for the Queen and the constitutional monarchy. Their primary objectives were to maintain the independence of the Aupuni Hawai‘i and to secure the civil rights and national resources of Lāhui ‘Ōiwi. Under the leadership of Queen Lili‘uokalani, a descendant of the ruling chiefs of Hawai‘i, they sought to regain control of Aupuni Hawai‘i and keep it independent of the U.S government.²³

The effort by American interests to annex Hawai‘i in 1893 failed when U.S. President Grover Cleveland, who had succeeded Benjamin Harrison as president, withdrew the annexation treaty from consideration by the U.S. Senate and dispatched former Georgia Congressman James Blount to Hawai‘i to investigate the events of January 1893.

The Hawaiian Patriotic Leagues and others organized rallies and meetings and submitted testimonies and petitions to Commissioner James Blount, which had a significant impact on his findings, supporting the restoration of the Queen.²⁴

After receiving Blount’s report, President Cleveland determined that the United States had been responsible for the overthrow of the monarchy and that the Queen should be restored to the throne. Cleveland referred the matter to the U.S. Congress. The Senate Foreign Relations committee conducted its own hearings and concluded that the U.S. should annex Hawai‘i.²⁵ Since annexation would not be possible as long as Cleveland was president, on July 4, 1894 the

²³ Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham: Duke Univ. Press, 2004), pp. 131, 136-163. Non-Lāhui ‘Ōiwi citizens of Aupuni Hawai‘i also supported these efforts to keep Hawai‘i independent of the U.S. and these organizations are claimed as predecessors to the current movements for both the sovereignty of Lāhui Hawai‘i and the independence of Aupuni Hawai‘i.

²⁴ *Id.*, pp. 130-134.

²⁵ *Pub. L. No. 103-150, 107 Stat. 1510 (1993)*

Provisional Government established the Republic of Hawai‘i, The majority of Lāhui ‘Ōiwi refused to participate in this government.²⁶

In January of 1895, Lāhui ‘Ōiwi nationalists organized an armed insurrection aimed at restoring the Queen to the throne.²⁷ However, despite months of planning, the restoration effort was defeated just as it was about to be launched. In all, 220 Lāhui ‘Ōiwi nationalists were arrested and charged as prisoners of war for treason and concealment of treason.²⁸ The Queen herself was arrested, tried and found guilty of misprision of or concealment of treason.²⁹ On January 24, 1895, while imprisoned in ‘Iolani Palace, Queen Lili‘uokalani was forced to sign a statement of abdication in favor of the Republic.³⁰ The arrests, trials and imprisonment of the royalists effectively suppressed all armed efforts to restore the monarchy. Nevertheless, Native Hawaiians persisted in their opposition to annexation through rallies, meetings, petitions, newspapers, songs and publications.³¹

In 1897, the McKinley administration submitted an annexation treaty to the U.S. Senate for ratification by the necessary two-thirds majority. Lāhui ‘Ōiwi organized against the treaty. The Hui Kalai‘āina (Hawaiian Political Association), launched a petition drive opposing

²⁶ Only 509 Lāhui ‘Ōiwi took the oath of allegiance to the Republic's constitution, while 9,554 Lāhui ‘Ōiwi had been registered to vote in 1890. See *Affairs in Hawaii*, "The Census of 1890 by Age and Nationality, Showing Number of Registered Voters," cited in Thos. G. Thrum, *Hawaiian Almanac and Annual for 1893. A Handbook of Information* (Honolulu: Press Publishing Co. 1892)

²⁷ See Russ, *The Hawaiian Republic*, pp. 55-57.

²⁸ Twenty-one (21) of the men who were Caucasian were given and took the option to leave Hawai‘i to avoid serving prison sentences.

²⁹ Allen, *Betrayal of Queen Liliuokalani*, pp. 331-350.

³⁰ Subsequently, the Queen renounced the statement, explaining that she had been coerced into signing it in order to save her arrested supporters from execution. Liliuokalani, *Hawaii's Story*, p. 274.

³¹ For one example, see F.J. Testa, *Buke Mele Lahui—Book of National Songs* (Honolulu: Paia ma ka Halepai Makaainana, 1895), (reprinted: Honolulu: Univ. of Hawai‘i Press, Hawaiian Historical Society, Hawaiian Language Reprint Series, 2003), containing patriotic songs honoring the Queen and those who defended her. In September and October 1897, Senator John Morgan, Chairman of the Senate Foreign Relations Committee, and four Congressmen traveled to Hawai‘i to rally support for a treaty of annexation that the Republic of Hawai‘i had negotiated with President McKinley. They met mass opposition as thousands of Native Hawaiians rallied at Palace Square against the treaty.

annexation and calling for the restoration of the monarchy. They collected 17,000 signatures. Hawaiian nationalist leaders formed the Hui Aloha ʻĀina (Hawaiian Patriotic League) of men and women and their petition against annexation collected 21,000 signatures.³² Queen Liliʻuokalani and a delegation of Lāhui ʻŌiwi carried the petitions to Washington D.C. and successfully convinced the majority of senators to defeat the treaty.

In 1898, the U.S. Congress claimed control over the islands through the Newlands Joint Resolution of Annexation, with the agreement and support of the Republic of Hawaiʻi.³³ The constitutionality of the Annexation of Hawaiʻi through a joint resolution rather than by a treaty was hotly debated in Congress at the time and continues to be challenged by Lāhui ʻŌiwi scholars today.³⁴

³² Noenoe K. Silva, "Kanaka Maoli Resistance to Annexation," in *ʻŌiwi: A Native Hawaiian Journal*, Inaugural Issue (Honolulu: Kuleana ʻŌiwi Press, December 1998). Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham & London: Duke Univ. Press, 2004).

³³ *Id.*

³⁴ The primary argument against the resolution was that only under the constitutional treaty-making power could the United States gain territory. To acquire Hawaiʻi by a legislative act, a joint resolution, would usurp the power of the Senate and executive to act in matters relating to acquisition of new territories and set a dangerous precedent. Although annexationists pointed to the acquisition of Texas in 1845 by joint resolution as precedent, most anti-annexationists believed that Texas had been brought into the Union legally under Congress' power to admit new states. Statehood was not proposed for Hawaiʻi so the Texas acquisition had no precedential value. Moreover, in the Texas situation, the joint resolution was approved by a plebiscite held in Texas. No plebiscite was proposed for Hawaiʻi. One Senator offered an amendment to the Newlands measure providing for such a vote by all adult males, but it was defeated. See *31 Congressional Record*, p. 6018 (June 15, 1898), p. 6149 (June 20, 1898); p. 6310 (June 24, 1898); pp. 6709-12 (July 6, 1898) for debate and vote on the resolution; also see *Native Hawaiian Rights Handbook*, ed. Melody Kapilialoha MacKenzie (Honolulu: UH Press, 1991), pp. 24, n. 100. For contemporary challenges see Keanu Sai, "A Slippery Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and Its Use and Practice in Hawaiʻi Today" in *Journal of Law & Social Challenges*, 10 J.L. & Soc. Challenges 68.

The U.S. began to govern Aupuni Hawai‘i as a territory from 1900 through 1959. Politically, the U.S. empowered a white oligarchy of Americans to govern the multi-ethnic Aupuni Hawai‘i as an incorporated territory that eventually became a U.S. state.

Lāhui ‘Ōiwi: An Indigenous Minority

The Lāhui ‘Ōiwi population was estimated between 400,000 to 800,000 inhabitants in 1778, the year that British explorer Captain James Cook arrived in Hawai‘i. Throughout the years of foreign settlement of the islands, Lāhui ‘Ōiwi, due to their lack of genetic immunity succumbed to foreign continental diseases that, grew to epidemic proportions. Such diseases included cholera, measles, whooping cough, influenza, leprosy, and tuberculosis.

In 1845, non-Kanaka ‘Ōiwi were allowed to become naturalized citizens. By 1890, due to their continuing decline and the importation of immigrant contract labor primarily from China and Japan, Lāhui ‘Ōiwi comprised only forty-five percent (45%) of the population of the islands. Nevertheless, as Asian residents were not allowed to become naturalized citizens, Lāhui ‘Ōiwi still comprised eighty-five percent (85%) of the citizens of the Hawaiian Kingdom.³⁵

The demographic trend for Lāhui ‘Ōiwi to become a minority in the homeland was already evident by the end of the 19th century. If the Hawaiian Kingdom had continued its governance of the islands, Lāhui ‘Ōiwi would not only have become a minority of the population, but also a minority of the citizens of the Kingdom. They were devolving into an indigenous minority of Aupuni Hawai‘i in much the same way that Fijians are an indigenous minority in Fiji and the Maori are the indigenous minority in New Zealand (Aotearoa). In each of these independent Pacific Island nation-states, the indigenous Pacific Islanders have sovereign rights that are distinct from that of the citizens as a whole.

³⁵ Robert Schmitt, *Demographic Statistics of Hawaii: 1778-1965* (Honolulu: Univ. of Hawaii Press, 1968), Table 16, p. 74. “The Census of 1890 by Age and Nationality, Showing Number of Registered Voters,” cited in Thos. G. Thrum, *Hawaiian Almanac and Annual for 1893. A Handbook of Information* (Honolulu: Press Publishing Co. 1892)

By 1900, when Hawai‘i began to be governed as a Territory of the United States, Lāhui ‘Ōiwi of full Hawaiian ancestry had declined to 29,800 and there were 7,800 Kanaka ‘Oiwī of mixed ancestry. In all, Lāhui ‘Ōiwi comprised twenty-four percent (24%) of the population. At the same time, because first generation Chinese and Japanese were barred from becoming naturalized citizens of the U.S., Lāhui ‘Ōiwi comprised sixty-nine percent (69%) of the registered voters.³⁶

Lāhui ‘Ōiwi actively participated in territorial politics and contended for political control over Aupuni Hawai‘i with the oligarchy of American businessmen and planters. At the same time, Lāhui ‘Ōiwi also recognized the need to organize new political, civic, and benevolent organizations in order to provide for the well-being of the Native Hawaiian people and to protect national and ancestral rights and trust assets. These organizations assumed the rudimentary functions of self-governance for Lāhui ‘Ōiwi. Prominent among these organizations were Hawaiian Land Hui (Groups of Lāhui ‘Ōiwi who jointly owned land); Hawaiian royal societies (Royal Order of Kamehameha I, Ka‘ahumanu Society, Daughters and Sons of Hawaiian Warriors and the Hale O Nā Ali‘i); Ahahui Pu‘uhonua O Nā Hawai‘i (Hawaiian Protective Association); the Hawaiian Civic Clubs; and Associations of Hawaiian Homesteaders.

Through the work of these organizations, the U.S. Congress acknowledged Lāhui ‘Ōiwi as a distinct indigenous people with whom the U.S. had a special relationship. This was most evident in, but not limited to, the mandate of the U.S. Bureau of American Ethnology to research Lāhui ‘Ōiwi; the passage of the Hawaiian Homes Commission Act in 1921; the Kalapana

³⁶ For percentage of the population see U.S. Bureau of the *Census 15th Census of the United States: 1930, Population Second Series, Hawai‘i: Composition and Characteristics of the Population and Unemployment* (Washington: Government Printing Office, 1931), p. 48, Table 2 for Composition and Characteristics of Population. For Voter Registration data see Hawai‘i (Territory) Governor of the Territory of Hawaii, *Report to Secretary of Interior, 1931* (Washington: Government Printing Office, 1931), p. 14.

Extension Act in 1938; and the sections of the Hawai'i Admission Act in 1959 that identified Lāhui 'Ōiwi as beneficiaries of the Hawaiian Homelands and the Ceded Public Lands Trust.³⁷

Throughout the 1970's and through the end of the 20th century Lāhui 'Ōiwi formed several organizations of self-governance which included but were not limited to - "The Hawaiians" which sought to expand the land distributed to Lāhui 'Ōiwi by the State of Hawai'i Department of Hawaiian Home Lands; the Congress of Hawaiian People who sought to expand educational opportunities for Lāhui 'Ōiwi at the Kamehameha Schools; Aboriginal Lands of Hawaiian Ancestry (A.L.O.H.A), which sought reparations for Lāhui 'Ōiwi from the U.S. Congress for the role of the U.S. in the overthrow of the Hawaiian monarchy; the Protect Kaho'olawe 'Ohana which sought to stop the U.S. navy bombing of the island of Kaho'olawe and restore the island; Alu Like, Inc., which attracted federal funds to support the social and economic self-sufficiency of Lāhui 'Ōiwi; and Ka Lāhui Hawai'i which sought to re-establish a government-to-government relationship with the federal and state governments.

Lāhui 'Ōiwi also formed 'āina or land-based organizations to protect their natural and cultural resources from tourist, commercial and industrial development. On the Island of Hawai'i Ka 'Ohana o KaLae organized against a planned spaceport; Mālama Ka 'Āina Hana Ka Āin formed to claim Hawaiian Homelands near the Hilo airport; Pele Defense Fund organized to protect the volcano deity, Pele, from geothermal energy development. On Moloka'i, the Hui Alaloa, Ka Leo O Mana'e and Hui Ho'opakela 'Āina exercised traditional access rights through private lands to utilize ocean resources and worked against resort and tourist developments. On Maui, Hui Ala Nui O Makena formed to keep access to the ocean on Maui's south shore open for

³⁷ Pub. L. No. 61-266, 26 Stat. 703, 718 (1910); Pub. L. No. 69-600, 44 Stat. 1069, 1079 (1927); Pub. L. No. 71-158, 46 Stat. 229, 241 (1930). Pub. L. No. 67-34, 42 Stat. 108 (1921), Hawaiian Homes Commission Act. Pub. L. No. 75-680, § 3, 55 Stat. 784, 784-85 (1938), Kalapana Extension Act. Pub. L. No. 86-3, 73 Stat. 4 (1959) *Hawaii Admission Act, Sections 4 and 5 (f)*.

fishing and gathering; Hāna Pōhaku started community-based economic development projects in Kipahulu and Ke‘anae Community Association worked to keep the water flowing into their taro pondfields. On Kaua‘i, Hawaiian Farmers of Hanalei initiated community-based projects at Waipā and Ka Wai Ola sought to manage tour boat operations along the north shore. On O‘ahu, community-based economic projects were started in Wai‘anae (Ka‘ala Farms and Opelu Project) and Waiahole Valley.

Lāhui ‘Ōiwi leaders also formed organizations that sought the independence of Aupuni Hawai‘i, separate from the U.S. government. These include but are not limited to ‘Ohana O Hawai‘i which transformed into the Kingdom of Hawai‘i founded by Aunty Peggy Ha‘o Ross; the Institute for the Advancement of Hawaiian Affairs founded by Pōkā Laenui; Ka Pākaukau initiated by Richard Kekuni Blaisdell, M.D.; the Nation of Hawai‘i founded by Dennis "Bumpy" Kanahele; the Reinstated Hawaiian Kingdom founded by Henry Noa; and the Acting Council of Regency of the Hawaiian Kingdom Government founded by Keanu Sai, Phd.

These political formations were paralleled by a renaissance and revival of traditional navigational arts through the Hōkūle‘a and Polynesian Voyaging Society; the expansion of the number of hālau hula (hula schools) evident in the increased participation in the annual Merrie Monarch Hula Festival in Hilo, Hawai‘i; the revival of the Hawaiian language with the establishment of Hawaiian language immersion pre-schools, public and charter schools; and the overall flourishing of Hawaiian cultural and spiritual customs, beliefs and practices in Hawai‘i's rural communities.

At the beginning of the 21st century, the total population of Hawai‘i numbered 1.2 million. The 239,655 Lāhui ‘Ōiwi comprise 20 percent of the population. Another 161,500 or 40 percent of the 401,162 Lāhui ‘Ōiwi counted in the 2000 US census lived in the continental United States.

The minority position of Lāhui ‘Ōiwi in Hawai‘i has given rise to complicated issues and challenges related to rights and entitlements as compared to that of the larger general public.

This led to a movement to re-establish a government for the Lāhui ‘Ōiwi (Native Hawaiian indigenous nation) and re-establish a government-to-government relationship with the U.S. government.³⁸

Reality Bites: Indigenous People or Racial Group?

The U.S. Supreme Court, in the *Rice v. Cayetano* case, ruled on February 23, 2000 that elections for the trustees of the State of Hawai‘i Office of Hawaiian Affairs (OHA), in which only Lāhui ‘Ōiwi were allowed to vote, used unconstitutional race-based qualifications, a violation of the 15th Amendment of the US Constitution, which states that the right to vote cannot be denied on account of race or color.³⁹

The U.S. Supreme Court, in its ruling, also stated that Lāhui ‘Ōiwi have a shared purpose with the general public in the islands and that the Constitution of the United States has become the heritage of all the citizens of Hawaii, including Lāhui ‘Ōiwi. In addition to suggesting that Lāhui ‘Ōiwi have assimilated into the general settler society, the court raised questions about whether or not Lāhui ‘Ōiwi are, in fact, a distinct and unique indigenous people with the right of self-governance and self-determination under U.S. law or whether they are, instead, an ethnic or racial minority.

The majority of the Supreme Court Justices also seemed to open the door to future legal challenges on the indigenous status of Lāhui ‘Ōiwi when it stated:

It is a matter of some dispute, for instance, whether Congress may treat the native Hawaiians as it does the Indian tribes. Compare Van Dyke, *The Political Status of the Hawaiian People*, 17 *Yale L. & Pol’y Rev.* 95 (1998), with Benjamin, *Equal Protection and the Special Relationship: The Case of Native Hawaiians*, 106 *Yale L.J.* 537 (1996). We can stay far off that difficult terrain however.

³⁸ Organizations leading this effort have included Ka Lāhui Hawai‘i, OHA and the Sovereignty Elections Council, the Protect Kaho‘olawe ‘Ohana and the Council for Native Hawaiian Advancement.

³⁹ *Rice v. Cayetano*, 485 U.S. 495 (2000). Kennedy, J. delivered the opinion of the Court, in which Rehnquist, C.J., O’Connor, Scalia, Thomas, J.J. joined. Breyer, J. filed an opinion concurring in the result, in which Souter, J. joined. Stevens, J. filed a dissenting opinion in which Ginsburg, J. joined as to Part II. Ginsburg, J. filed a dissenting opinion.

Suddenly, the status, rights, and entitlements which Kanaka ʻŌiwi had enjoyed as an indigenous people throughout the 20th century could be potentially challenged out of existence as race-based entitlements that violated the equal protection clause of the 14th amendment. In fact, in each year since the Rice decision a group of Republican senators has filed an objection to special funding provisions for Lāhui ʻŌiwi.

What are these rights and entitlements? Beginning in 1906 and through 1998, the U.S. Congress, in effect, recognized a trust relationship with through the enactment of 183 Federal laws, which explicitly included Kanaka ʻŌiwi in the class of Native Americans. Some of the laws extended federal programs set up for Native Americans for health, education, housing, elder care, and job training to Lāhui ʻŌiwi. The American Indian Religious Freedom Act includes the acknowledgement and protection of the religious customs, beliefs and practices of Lāhui ʻŌiwi. The Native American Graves Protection and Repatriation Act extends protection to Lāhui ʻŌiwi graves and burials.⁴⁰ The U.S. Congress also created two public lands trusts for which Kanaka ʻŌiwi are beneficiaries - Hawaiian Home Lands and the Ceded Public Lands Trust.⁴¹

The Introduction and Failure of the Native Hawaiian Government Reorganization Act

With so much at stake for Lāhui ʻŌiwi, Lāhui ʻŌiwi organizations, led by the OHA began to work on a strategy of reorganizing a Lāhui ʻŌiwi government and re-establishing a formal government-to-government relationship with the U.S. government. They worked with Hawaiʻi's congressional delegation, led by Senators Daniel Akaka and Daniel Inouye and the administration of President William Clinton. In March 1999, Senator Akaka asked the Departments of Interior and Justice to initiate the process of reconciliation that had been called

⁴⁰ Department of Interior and Department of Justice, "From Mauka to Makai: The River of Justice Must Flow Freely, Report on the Reconciliation Process Between the Federal Government and Native Hawaiians," Washington D.C., October 23, 2000.

⁴¹ Potentially, challenges could also be posed to provisions of the Hawaiʻi State Constitution that acknowledge and protect Lāhui ʻŌiwi entitlements.

for in the Public Law 103-150 Apology Resolution. Hearings were held in Hawai‘i in December 1999 and a report was completed in October 1999. Based on the report the Native Hawaiian Government Reorganization Act (called the Akaka Bill) was introduced in Congress in November 2000 to explicitly and unambiguously clarify the trust relationship between Lāhui ‘Ōiwi and the United States.

Opponents of Lāhui ‘Ōiwi recognition successfully lobbied congress to oppose the bill. Calling themselves “Aloha For All,” the group is supported by the National Coalition for a Color Blind America. On their web page, which lists four members, they state:

This legislation is dangerous to the people of Hawai‘i and to the sovereignty of the United States. It is an attempt to divide the thoroughly integrated people of Hawai‘i along racial lines. It would partition the State of Hawai‘i by setting up an apartheid regime to which only kanaka maoli (the name Native Hawaiians prefer to call themselves) could belong... One of the most troubling aspects of the Akaka bill is its attempt to create an Indian tribe where none currently exists. It would be the first time in history when Congress recognizes a currently non-existent political entity and then puts in place a procedure to populate it.⁴²

The Aloha For All group claims that all residents of Hawai‘i are Hawaiian and that the limitation of any benefits to those who are “racially Hawaiian” is discriminatory and violates the 14th Amendment of the U.S. Constitution.⁴³

Litigation pursued by the group has taken the form of three civil suits: *Patrick Barrett vs. State of Hawaii, et al*; *John Carroll vs. James Nakatani, et al*; and *Arakaki vs. Lingle*.⁴⁴ Initially, the suits sought to dismantle the State Department of Hawaiian Home Lands and OHA, and to abolish the traditional and customary rights of Lāhui ‘Ōiwi to gather for subsistence, cultural, and religious purposes on public and private lands. In June 2001, Patrick Barrett changed his strategy to that of seeking to open the benefits assured to Lāhui ‘Ōiwi by the State of Hawai‘i under these departments and the State Constitution to all residents of the islands. The

⁴² Ibid.

⁴³ Ibid., KITV News, June 4, 2001; Honolulu Advertiser, June 5, 2001, B-2. Another group who opposes entitlements for Lāhui ‘Ōiwi is the Grassroot Institute of Hawaii - new.grassrootinstitute.org.

⁴⁴ Patrick Barrett vs. State of Hawaii, et al, Civil No. CV-00-00645 DAE-KSC; John Carroll vs. James Nakatani, et al, Civil No. CV00-00641 DAE-KSC.

Arakaki case asserted that Lāhui ‘Ōiwi are not indigenous people because they arrived here from other Polynesian Islands and with contact and the importation of contract laborers, Lāhui ‘Ōiwi have intermarried and thus assimilated into the mainstream Hawaiian society. Here is an excerpt from the brief filed with the federal court on April 11, 2003:

No one can trace his or her ancestry back to the first canoe of immigrants. This long story of immigration—longer than the entire post-Columbian history of immigration to America—refutes the claim that the class of Hawaiians and native Hawaiians as defined by ancestry in HRS 10-2 and Hawaiian Homes Commission Act of 1920201(7) are “indigenous” to Hawai‘i. All groups came from outside and did not originate here... Culturally, socially, economically and in every other material respect, that racial group [Native Hawaiians] manifests none of the elements of separate yet common culture, tradition, language, institutions or beliefs which could separate them as a group from the rest of Hawai‘i’s people.⁴⁵

By 2015, federal recognition through Congressional action appeared defeated, especially with the retirement of Senator Akaka from Congress in 2013 and the passing of Senator Inouye in 2012. OHA and Lāhui ‘Ōiwi leaders have developed an alternate path for the sovereignty of Lāhui ‘Ōiwi.

A New Pathway for Lāhui ‘Ōiwi

In 2011, the Hawai‘i state legislature passed a bill for the establishment of a roll of Lāhui ‘Ōiwi who will elect delegates to an ‘aha or convention to draft a governing document for the re-establishment of a government for Lāhui ‘Ōiwi. In May 2015, there were 122,700 Lāhui ‘Ōiwi registered on this roll.⁴⁶

In 2014, the U.S. Department of Interior announced that it was considering the opening of a pathway to re-establish a government-to-government relationship with Lāhui ‘Ōiwi. The announcement stated:

The Secretary of Interior (Secretary) is considering whether to propose an administrative rule that would facilitate the reestablishment of a government-to-government

⁴⁵ *Arakaki vs. Lingle*, Civ.No. 02-00.139 SOM/KSC, Plaintiff’s Opposition to Motion for Judicial Notice, 4-11-03

⁴⁶ <http://www.kanaiolowalu.org>. last viewed May 28, 2015.

relationship with the Native Hawaiian community, to more effectively implement the special political and trust relationship that Congress has established between that community and the United States.⁴⁷

Both initiatives have received strong support by Lāhui ‘Ōiwi who advocate the re-establishment of Lāhui Hawai‘i and a government-to-government relationship with the U.S. government. At the same time, there has also been strong opposition by Lāhui ‘Ōiwi who advocate for the complete independence of Aupuni Hawai‘i from the U.S. government.

Strategies for the Independence of Aupuni Hawai‘i

Lāhui ‘Ōiwi opponents feel that the recognition of Lāhui Hawai‘i as a separate political entity with internal self-governing authority will not resolve the principal claims of Aupuni Hawai‘i for independence from the United States. More importantly, they fear that resolution of the claims of Lāhui Hawai‘i with the U.S. government could actually prevent the case for independence from getting on to the agenda of the United Nations or international courts of law. These opponents reject a government-to-government relationship of Lāhui Hawai‘i with the U.S. government as demeaning and restrictive of full self-determination.⁴⁸

A symposium on international recognition and Hawaiian sovereignty sponsored by the OHA on November 1, 2014 featured international law experts James Anaya, J.D. and Robert Williams, J.D.. Both panelists confirmed that the re-establishment of Lāhui ‘Ōiwi with a government-to-government relationship with the U.S. would **not** harm the case for international recognition of Aupuni Hawai‘i. Instead they pointed out that the re-established Lāhui ‘Ōiwi could actually provide resources and a platform for the broader movement of independence for Aupuni Hawai‘i.⁴⁹

⁴⁷ Department of Interior, Office of the Secretary, 43 CFR Part 50.

⁴⁸ For an analysis of these international strategies see Julian Aguon *The Commerce of Recognition (Buy One Ethos, Get One Free), Toward Curing the Harm of the United States' International Wrongful Acts in the Hawaiian Islands* ‘Ohia, A Periodic Publication of Ka Huli Ao Center for Excellence in Native Hawaiian La, 2012

⁴⁹ https://www.youtube.com/watch?v=j4KwqoCus_A&list=PLnkIWTIznWSAG446Z98iL4BYKaVR5tTto&index=3. Last viewed 5-30-15.

There are two main strategies for restoring the independence of Aupuni Hawai'i. The first is to seek the decolonization of Hawai'i through the United Nations. In 1946, Hawai'i was inscribed with the U.N. Committee on Non-Self Governing Territories. As a result of the plebiscite that resulted in statehood for Hawai'i, the U.S. removed Hawai'i from that list in 1959. Independence advocates charge that the plebiscite did not meet the standards of free and fair process (1) neutrality of the plebiscite area (2) freedom from foreign occupation; and (3) control of the administration of the plebiscite by a neutral authority. In addition the voters were only presented with the choice of statehood and not allowed the option of complete independence or free association. Like East Timor, Kanaky (New Caledonia) and French Polynesia, this strategy would reinscribe Hawai'i with the U.N. to hold a free and fair plebiscite.

The second strategy is to seek the deoccupation of Hawai'i under the international "law of war" process. The rationale is that the United States is effectively at war with the sovereign and independent Hawai'i nation-state (Aupuni Hawai'i) and has occupied the islands since 1893. Under international law an illegal occupation and annexation cannot pass lawful title to the occupying power. This strategy turns to the United Nations and other appropriate international forums to resolve the prolonged occupation of Hawai'i. The objective is to expose the occupation of the Hawaiian Kingdom (Aupuni Hawai'i) within the framework of the 1907 Hague Conventions IV and V and domestic statutes of the Hawaiian Kingdom, to provide a foundation for a transition and the ultimate end of the occupation of the Hawaiian Kingdom.⁵⁰

Two major challenges for the advocates of the strategies to achieve the independence of Hawai'i exist. First, is the denial on the part of the U.S. that Hawai'i is still a nation-state with the right of sovereignty and self-determination. The U.S. is determined to protect the political status of Hawai'i as a state within U.S. borders. The second challenge is the task of organizing

⁵⁰ <http://www.hawaiiankingdom.org>, last viewed 5-31-15, and http://www.hawaiiankingdom.org/pdf/HK_Strategic_Plan.pdf, last viewed 5-30-15. See Convention (IV) respecting the Laws and Customs of War on Land and its annex: Regulations concerning the Laws and Customs of War on Land, Oct. 18, 1907, 36 Stat. 2277, T.S. No. 539;.

all the members of Aupuni Hawai‘i, all those born and raised in Hawai‘i (not just Lāhui ‘Ōiwi), to support the independence of Hawai‘i.

Table Comparing Lāhui Hawai‘i and Aupuni Hawai‘i

Entity	Root	Members	Legal Framework	Pathways	Goal
Lāhui ‘Ōiwi	District Chiefs; Island Aha (Council of Chiefs) Island High Chiefs; Hawaiian Kingdom & Constitutional Government	Persons of Native Hawaiian ancestry	Hawai‘i State Law; U.S. Federal Law; UN Rights of Indigenous Peoples	Re-establish Native Hawaiian Govt thru Na‘i Aupuni election & governance Aha; DOI rule provides option for govt-to-govt federal relation	Protect Native Hawaiian cultural customs, beliefs practices & language; Manage Hawaiian lands & resources to provide for well-being of Native Hawaiians & ‘āina
Aupuni Hawai‘i	District Chiefs; Island Aha (Council of Chiefs) Island High Chiefs; Hawai‘i Kingdom & Constitutional Government	Multi-ethnic people of Hawai‘i	Article 73 of UN Charter; "law of nations"	Reinscription with UN & Plebiscite; De-Occupation by US & international recognition of Hawai‘i as nation state	Self-determination of Native Hawaiians & the multi-ethnic peoples of Hawai‘i under an independent Hawai‘i nation state

Ha‘ina Ia Mai Ana Kapuana - The Story Continues . . . Let It Be Told

In this article I have attempted to provide a new perspective on the movements and strategies being pursued to achieve sovereignty. In Hawai‘i, sovereignty for Lāhui ‘Ōiwi is the primary social justice issue to address and resolve.

Many newcomers to Hawai‘i claim that they bear no obligation to reconcile with the descendants of Lāhui ‘Ōiwi for the injustices that occurred decades ago by persons to whom they bear no relation. However, non-Lāhui ‘Ōiwi in Hawai‘i benefit from, while Lāhui ‘Ōiwi bear the burden of, the results of those historical injustices.

Aloha mai no, aloha aku: when love is given, love should be returned.¹ This ‘ōlelo no‘eau means that aloha is reciprocal. Lāhui ‘Ōiwi people have given aloha to newcomers and their descendants for generations. Now is the time for aloha to be acknowledged and returned to

Lāhui ‘Ōiwi and their descendants. The story of sovereignty continues and it will be passed on.

Aloha nō.

¹ Pukui, 1983, # 113, 15. Aloha mai no, aloha aku; o ka huhu ka mea e ola ‘ole ai. When love is given, love should be returned; anger is the thing that gives no life.