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**GIFTS OF SOVEREIGNTY:
SETTLER COLONIAL CAPITALISM AND
THE KANAKA 'ŌIWI POLITICS OF EA**

by

DAVID UAHIKEAIKALEI'OHU MAILE

B.A., Economics, Pacific University, 2010
M.S., Communication Studies, University of Portland, 2012

DISSERTATION

Submitted in Partial Fulfillment of the
Requirements for the Degree of

**Doctor of Philosophy
American Studies**

The University of New Mexico
Albuquerque, New Mexico

May 2019

DEDICATION

No ku‘u tūtū kāne ‘o Arlen Milton Maile.

ACKNOWLEDGEMENTS

There is a mo‘okū‘auhau, or genealogical succession, to this project. As I have come to know, it begins with Kaneahuea and Koleka who gave birth to Ko‘olau Agnes Kaheleluhi Kaneahuea in Honouliuli. It begins also with Kaluaikaaawa and Lukea who gave birth to Charles B. Maile in Wai‘anae. Charles and Ko‘olau had George Lahilahi Kaikainahaole Maile in Honolulu. Also in Honolulu, George and Helen Kalihilihiokawai Osaki West had eight children, including my grandfather Arlen Milton Maile. He and Rosella Oi Kun Maile gave birth to my father Keith Michael Tin Chong Maile in Honolulu. My father and mother, Patricia Lynne Dunkin-Maile, had both my older brother Daniel Kapalikūokalani Maile and me in Honolulu. This is my mo‘okū‘auhau. It is a genealogy that animated and motivated this dissertation project. My kūpuna (ancestors), ‘ohana (family), and one hānau (birthplace and homeland) have written their words through me in here.

Mahalo nui to my parents, Keith and Patricia, for their support throughout my life. I was a kolohe (mischievous) child, but thankfully they never gave up on me. Instead, they demonstrated the importance of education. My mom homeschooled my brother and I. Complicated to say the least, it was a remarkable endeavor that she labored over. Despite not being fond of reading or writing as a kid, I do now and credit my mother with being the person to teach me how. I could not have composed this without her. Likewise, I could not have completed the project without my dad. He taught me about work, working hard, and working the system. These were not always easy lessons to learn, but I am grateful that he invested in me. I am grateful for what he continues to

teach me with his breathtaking art. This dissertation is possible because of my mother and father, and I am so thankful for their teachings.

Mahalo nui to Kapalikūokalani for being my kaikua‘ana, my older brother. It is an understatement to say that he is brilliant. Without success, I have tried my best to emulate his intelligence and genius. His own work is a tour de force of ‘ike Hawai‘i, or Hawaiian knowledge. If I ever needed some ‘ike, I knew I could seek him out. I am grateful for his labors in our community for the lāhui Hawai‘i (people and nation of Hawai‘i), and I am also thankful for how he has steered me in this project. I look up to him and his partner, Kamalu Du Preez, and hope that I have made them proud in these pages. Mahalo nui also to my grandma Rose for sharing her strength with me. It has not been easy without my grandpa around, but she has endured and advised me well, whether about my studies or social relations in general. I am so glad for all the time that we have shared. I hope to share more soon.

Mahalo nui to my partner, ku‘u kōko‘olua, Yarrow Allaire. She provided me with encouragement and wisdom throughout the entire process of dissertating. A budding lawyer, this project moved and shifted in important ways because of her legal expertise. Chatting over spicy tacos, hoppy beers, and warm fires, she helped me to convey my ideas and arguments in a succinct, legible manner. I could not have done this without her. More than just laboring with me over analysis, Yarrow showed me the love, care, and kindness I needed to finish. From farming in the South Valley to working out and deadlifting and squatting at five in the morning, she grounded me. She has been my balance. While certainly not perfect, I have tried my best to be a loving, caring, and kind partner to her, as well. I am excited to continue cultivating our relationship. Mahalo nui

also to Patricia Allaire, Scott Newland, and Noah Allaire for including me in your family and supporting my writing along the way. And mahalo piha to Florence, Joan, and Gilbert for the smiles, laughter, and furry companionship during this process.

There is also an academic genealogy to this project. I am honored and overjoyed to have worked with my dissertation committee: Jennifer Denetdale, Amy Brandzel, Noelani Goodyear-Ka'ōpua, and Jodi Byrd. Their collective mentorship, contributions, and guidance fueled me and propelled the project. I look forward to nurturing our relationships, not just in our scholarly fields but also in our communities. The staff and faculty of the Department of American Studies at the University of New Mexico helped tremendously in my journey. Mahalo to David Correia, Nick Estes, Alyosha Goldstein, Katie Holscher, Alex Lubin, Mercedes Nysus, Rebecca Schreiber, Tony Tiongson, and Irene Vasquez. I am thankful for the support from staff and faculty in other departments: Mary Jane Collier, Erin Debenport, Shinsuke Eguchi, Marcia Kloepper, Susana Martínez Guillem, Tema Milstein, Robin Minthorn, Adriana Ramírez de Arellano, Sandy Rodrigue, Iliá Rodríguez, Myra Washington, and Melanie Yazzie. Faculty outside of the University of New Mexico have also nurtured me and my dissertation. Mahalo to Hōkū Aikau, Noelani Arista, Maile Arvin, Godfried Asante, Leilani Basham, Noorie Baig, Kamana Beamer, Alohalani Brown, Emalani Case, Iokepa Casumbal-Salazar, David Chang, Jaskiran Dhillon, Candace Fujikane, Mishuana Goeman, Vernadette Gonzalez, Lisa Hall, Susan Hill, Kaleikoa Ka'eo, J. Kēhaulani Kauanui, Jessica Kolopenuk, Bryan Kuwada, Jodi Melamed, Scott Morgensen, Kehaulani Natsuko, Jeani O'Brien, K-Sue Park, Chanda Prescod-Weinstein, Mark Rifkin, Dean Saranillio, Noenoe Silva, Audra Simpson, Shannon Speed, Lani Teves, Coll Thrush, Eve Tuck, and Sarah Wiebe. In

addition to them, mahalo nui to my smart and courageous classmates that stimulated this dissertation: Summer Abbott, Naomi Ambriz, Nick Barron, Sarah Beck, Reslie Cortes, Joe Gallegos, Tania García, Axel Gonzalez, Joseph Gonzalez, Roman Gurrola, Josh Heckman, Elspeth Iralu, Matt Irwin, Trudie Jackson, Lazarus Letcher, Maru Lopez, Raquel Madrigal, Rafael Martínez, Trisha Martínez, Froilan Orozco, Keioshiah Peter, Chris White, and Sandra Yellowhorse.

While sustained by the ‘āina, or lands and waters, of Hawai‘i throughout this process, the ‘āina in Albuquerque has nourished me during my stay. As an uninvited guest, I wrote this dissertation on the unceded territory of the Pueblo of Sandia. While occupying space upon their ancestral homeland, I have tried to be a good cousin and relative. I have taken on kuleana (responsibility), attempted to forge pono (balanced) relationships, and always fought for the ea (life and sovereignty) of our people and nations. E mau ke ea o kēia mau ‘āina i ka pono!

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ABSTRACT

This dissertation examines Hawaiian sovereignty in history, law, and activism. The project tracks Indigenous claims, negotiations, and articulations of sovereignty in Hawai‘i. Using a critically Indigenous approach to Hawaiian studies, I advance two main theses. First, Kānaka Maoli (Native Hawaiians) are discussed as a community divided on Hawaiian sovereignty. However, I contend that Kānaka Maoli exercise a diversity of strategies and tactics for Hawaiian sovereignty. I show how Kānaka Maoli practice multiple modalities of sovereignty that cumulatively produce the Kanaka ‘Ōiwi (Indigenous Hawaiian) politics of ea (life and sovereignty). Second, the historical development of settler colonial capitalism operationalized the US settler-state in Hawai‘i and fuels its management of Kānaka Maoli in contemporary struggles with federal recognition, nation-building, and astronomy industry development. Yet, Kanaka ‘Ōiwi artists and activists engage in geontologies of aloha ‘āina—a geographic way of being in the ‘āina (land and that which feeds)—that seek to overturn settler colonial capitalism and its champion the US settler-state. I argue that these practices issue gifts that disidentify with dominant ideologies of sovereignty as a way of reimagining ea for a decolonized then and deoccupied there. Therefore, my project explains the nefarious ways that the settler-state attempts to cohere territorial control to juridical authority and how Kānaka Maoli antagonize and disrupt the precariousness of settler sovereignty in Hawai‘i. Intervening into Indigenous Studies, Hawaiian Studies, and critical theories, the study offers new insights on the complex relationship between settler colonial capitalism and Hawaiian sovereignty.

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Chapter 1

Introduction

“As a *ho‘okupu*, or gift, to the Hawaiian people,
it will guide future discussions about sovereignty.”
—Haunani-Kay Trask¹

This project commences with a pair of stories and theses. I want to start with a personal mo‘olelo or story. On January 31, 2019, Cecily Hilleary, a journalist from Washington, DC covering Indigenous issues for the *Voice of America*, approached me over social media with questions about the Hawaiian sovereignty movement. Conveying that *Voice of America* lacked coverage on Native Hawaiians, Hilleary told me that she was writing an article about US federal recognition. Her particular interest was in the federal government’s legal process, through the Department of the Interior’s administrative rule in 2016, to re-establish a government-to-government relationship with the Native Hawaiian community. Claiming expertise on the Hawaiian sovereignty movement, Hilleary was not concerned about my thoughts but, instead, finding Native Hawaiian proponents of federal recognition. She said, “[I]’ve been desperately looking for someone who can speak in favor of federal recognition.” I was struck by how Hilleary easily found Kanaka Maoli (Native Hawaiian) opponents of federal recognition, who seek nothing less than full independence, and could not locate “the side,” as she put it, desiring federal recognition. Hilleary then asked me for recommendations on where to look. “Most Kānaka Maoli [Native Hawaiians] are not in favor of federal recognition,

¹ Haunani-Kay Trask, *From a Native Daughter: Colonialism and Sovereignty in Hawai‘i* (Honolulu, HI: University of Hawai‘i Press, 1999), 78, original emphasis.

period,” I responded. “It appears,” I went on, “that the desperation to find a Kanaka Maoli that favors federal recognition vividly illustrates the lāhui’s [people and nation’s] opposition. We don’t need recognition; we know who we are.” Hilleary immediately asked me to shift what was a public discussion into the private sphere, perhaps out of discomfort with accountability. I refused to comply. Seizing her request, I offered three specific recommendations:

Recommendation 1:

Looking for two sides of the “Native story” reifies the colonial narrative that Indigenous communities are divided & disorganized. It’s offensive. The Hawaiian sovereignty movement has engaged in a diversity of strategies that represent our collective unity.

Recommendation 2:

Media seem to be including more stories on Indigenous struggles into their “binders full of Natives.” Even progressive media. This reeks of liberal multiculturalism. It’s self-serving and dangerous, especially when a media outlet is funded by the US government.

Recommendation 3:

So much is available on this, from public testimony against federal recognition to ‘Ōiwi [Indigenous Hawaiian] research showing it’s a bad deal. Alas, our opposition, our overwhelming opposition, is less important than journalistic objectivity. We do our homework. Others should too.

Hilleary thanked me for my input. She also expressed gratitude for my skepticism. It is true; I was incredibly skeptical after being approached by her, especially since *Voice of America* is part of the US Agency for Global Media and funded by Congress.²

Nonetheless, she claimed to be fair and impartial. Hilleary explained that she sought, as an individual endeavor funded by the federal government from what I gathered, to empower Indigenous voices in mainstream news and dominant history. My skepticism

² “Mission and Values of VOA – Voice of America English News,” *VOA*, accessed March 12, 2019, <http://www.insidevoa.com/p/5831.html>

swelled. Concluding our conversation, she joked to me, “[A]s one Mohawk journalist I know once quipped, after finally recognizing in me an ally, ‘When VOA calls for an interview, it’s like the FBI knocking at the door.’” I did not respond. Exactly one week later on February 7, 2019, with a skewed sensibility of what it means to be an ally, Hilleary published her article with the title: “Native Hawaiians Divided on Federal Recognition.”³

Kānaka Maoli are discussed as a community divided on Hawaiian sovereignty. However, Kānaka Maoli engage in a diversity of strategies and tactics for Hawaiian sovereignty. This is the first thesis in my dissertation. Popular representations in local, national, and international news media habitually suggest that the Kānaka Maoli are fragmented in leadership, vision, and specific issues related to sovereignty. In her article “Do We Really Know Who We Are Anymore?” Trisha Kehaulani Weston writes bluntly that ‘Ōiwi leaders in Hawai‘i are “frail and divided.”⁴ Others describe the modern Hawaiian sovereignty movement as conflicted on vision.⁵ Reporting on new efforts to reorganize a Native Hawaiian government, Brittany Lyte says there is a “glaring fissure dividing Native Hawaiians on the issues of what sovereignty should look like, how it should be achieved and who, if anyone, outside the Native community should have a

³ Cecily Hilleary, “Native Hawaiians Divided on Federal Recognition,” *VOA*, February 7, 2019, <http://www.voanews.com>.

⁴ Trisha Kehaulani Watson, “Do We Really Know Who We Are Anymore?” *Civil Beat*, February 20, 2019, <http://www.civilbeat.org/2019/02/trisha-kehaulani-watson-do-we-really-know-who-we-are-anymore>.

⁵ Mark ‘Umi Perkins, “CONFLICTING VISIONS OF HAWAIIAN SOVEREIGNTY,” *Cultural Survival Quarterly Magazine*, March 2000, <http://www.culturalsurvival.org/publications/cultural-survival-quarterly/conflicting-visions-hawaiian-sovereignty>.

hand in it.”⁶ The fissure has supposedly produced opposing camps in self-governance and activism.⁷ For example, coverage on a recent election for the Office of Hawaiian Affairs identifies that candidates were split on the whether or not the Thirty Meter Telescope should be built atop Mauna Kea, a sacred mountain on the island of Hawai‘i.⁸ Some argue that Kānaka Maoli are patently separated on the development project, between those who approve of it and those protesting against it.⁹ These narratives produce a discourse that Kānaka Maoli are divided and incapable of organizing, agreeing, or acting as a collective polity, which serves to obscure and disarm Hawaiian sovereignty. But, in each chapter of this dissertation, I chart the diverse ways in which Kānaka ‘Ōiwi (Indigenous Hawaiians) claim, negotiate, and articulate sovereignty. These Kanaka ‘Ōiwi claims, negotiations, and articulations of sovereignty throughout history, law, and activism are not singular or monolithic, nor are they universal or absolute. They are particular, paradoxical, and extremely complicated. Whether under the rubric of national sovereignty, tribal sovereignty, Indigenous sovereignty, or something entirely different, Kānaka Maoli have fought for our land, lives, autonomy, and independence. These struggles over Hawaiian sovereignty are cumulative, which is precisely what the

⁶ Brittany Lyte, “First steps toward Native Hawaiian sovereignty get tripped up,” *Al Jazeera*, December 5, 2015, <http://america.aljazeera.com/articles/2015/12/5/first-steps-toward-native-hawaiian-sovereignty-get-tripped-up>.

⁷ Casey Tolan, “Why some Native Hawaiians want to declare independence from the U.S.,” *Splinter*, March 9, 2016, <http://splinternews.com/why-some-native-hawaiians-want-to-declare-independence-1793855248>.

⁸ Chelsea Davis, “Native Hawaiians divided over Thirty Meter Telescope ruling,” *Hawaii News Now*, October 31, 2018, <http://www.hawaiinewsnow.com/2018/10/31/native-hawaiians-divided-over-thirty-meter-telescope-ruling>.

⁹ “Hawaii Supreme Court gives the go-ahead to controversial Thirty Meter Telescope,” *CBC News*, October 31, 2018, <http://www.cbc.ca/news/technology/thirty-meter-telescope-1.4886136>.

discourse of division functions to undermine and eliminate. In each chapter, I explore this struggle over what I refer to as the Kanaka ‘Ōiwi politics of ea. The word ea translates from ‘ōlelo Hawai‘i (Hawaiian language) to English as breath, life, to rise, and also sovereignty. As such, my project investigates how Kānaka Maoli breathe life into the meanings and consequences of sovereignty for the lāhui, a nation rising.¹⁰

I want to share a second mo‘olelo. On January 24, 2019, Clare E. Connors, the Attorney General for the State of Hawai‘i, requested that the State of Hawai‘i’s legislature allocate \$2.5 million for “state security operations.”¹¹ Connors’ request was a new iteration of an ongoing initiative from the Department of the Attorney General. Previous attorney generals—Douglas S. Chin and Russell A. Suzuki—were unsuccessful in acquiring \$2.5 million from the legislature to fund what they named “state security operations.” Like Chin and Suzuki, Connors suggested that the purpose of state security operations would pivot on financially bolstering law enforcement to assist construction of the Thirty Meter Telescope (TMT), which is an enormous telescope complex funded by \$1.5 billion from an international consortium of astronomy and science organizations, public universities, and national governments. The TMT is attempting to be built on Mauna Kea, a mountain on the island of Hawai‘i also known as Mauna a Wākea that is sacred to Kānaka Maoli. Mauna a Wākea is part of the national lands stolen from the Hawaiian Kingdom in the late 19th century. Refusing desecration and destruction, Kānaka

¹⁰ See Noelani Goodyear-Ka‘ōpua, introduction to *A Nation Rising: Hawaiian Movements for Life, Land, and Sovereignty*, ed. Noelani Goodyear-Ka‘ōpua, Ikaika Hussey, and Erin Kahunawaika‘ala Wright (Durham, NC: Duke University Press, 2014).

¹¹ Timothy Hurley, “Planning for Thirty Meter Telescope protest conflict begins,” *Honolulu Star-Advertiser*, January 25, 2019, <http://www.staradvertiser.com/2019/01/25/hawaii-news/planning-for-tmt-protest-conflict-begins>.

Maoli, and non-Kanaka Maoli allies, that identify as *kia'i* (guardians and protectors) of the mountain have stopped all attempts to build the TMT. In 2015, Chin claimed that *kia'i*, who blockaded construction crews from ascending to the northern plateau of Mauna a Wākea to begin development of TMT, were an “imminent peril to public health, safety, and morality.”¹² Represented as threats of violence, he compared *kia'i* to the fascist white supremacists that marched in 2017 on Charlottesville, Virginia for the Unite the Right rally to demand \$2.5 million from the legislature for state security operations that could “respond to potential mass violence or civil disobedience, possibly atop Mauna a Wākea.”¹³ Connors echoed this need for capital from the State of Hawai‘i, a US settler-state in Hawai‘i, to quell opposing protest and support construction of TMT. During a committee meeting in the Senate, Senator Kai Kahele told Connors, “We just want to ensure that we don’t have a Standing Rock situation on Mauna Kea.”¹⁴ On one hand, Kānaka Maoli protecting Mauna a Wākea were analogized to neo-nazi white nationalists to secure capital in the service of exercising settler-state authorization of TMT. On the other hand, the symbol of Indigenous resistance and police intervention on the territory of the Standing Rock Sioux Nation analogized the Dakota Access Pipeline, a \$3.78 billion project for transferring crude oil, to the TMT. This is a story of settler capital and its system of settler colonial capitalism. Through settler-state financial appropriation of capital for policing and a scientific project for astronomy development, settler colonial

¹² See “BLNR Meeting – July 10, 2015 – Testimonies,” *Ōiwi TV*, July 15, 2015, <http://oiwi.tv/maunakea/blnr-meeting-july-10-2015-testimonies>.

¹³ Nanea Kalani, “Attorney general seeks \$2.5 million for security,” *Honolulu Star-Advertiser*, January 11, 2018, <http://www.staradvertiser.com/2018/01/11/hawaii-news/attorney-general-seeks-2-5-million-for-security>.

¹⁴ Hurley, “Planning for Thirty Meter Telescope protest conflict begins.”

capitalism has worked to suppress Kānaka ʻŌiwi, the defense of sacred land, and sovereign relations with it. As a structure proliferating in Hawaiʻi, settler colonial capitalism developed to subjugate Hawaiian sovereignty.

The historical formation of settler colonial capitalism operationalized US settler sovereignty in Hawaiʻi, and it fuels the US settler-state's management of Kānaka ʻŌiwi in current struggles over federal recognition, nation-building, and astronomy industry development. But, Kanaka ʻŌiwi artists and activists engage in geontologies of aloha ʻāina (love of land) to overturn settler colonial capitalism and its champion the US settler-state, which present gifts that disidentify with sovereignty to reimagine the politics of ea for decolonizing and deoccupying Hawaiʻi. This is the second thesis in my dissertation. The proceeding chapters mine the myriad ways that settler colonial capitalism has developed and persists. In Chapter 1, I track how colonial capitalism settled in the early 1840s, through the institutionalization of monetary currency and animal taxes in the Hawaiian Kingdom, opening up territorial and juridical conditions of possibility for settler sovereignty in Hawaiʻi. Chapters 2 and 3 examine the ways in which settler capitalism empowers the US settler-state and its federal and state initiatives for colonial dispossession. In Chapter 4, I explore the political economy of the TMT, as a development project for the astronomy industry, and how the US settler-state attempts to exercise territorial and juridical sovereignty over Hawaiʻi through it. These chapters concomitantly trace the many ways that Kānaka Maoli resist, reject, and refuse settler colonial capitalism and the settler-state constituted by it. The Indigenous resurgence and refusal that I investigate illustrate geographic ways of being in the ʻāina of Hawaiʻi that are mobilized for anti-colonial and anti-capitalist resistance. These geontologies of aloha

‘āina—translating to a deep love and genuine care of land, water, earth, and country—produce what I call *gifts of sovereignty*. Gifts of sovereignty confer responsibility and obligation to balance relationships with the ‘āina of Hawai‘i. In doing so, the gifts disidentify with sovereignty and reimagine the Kanaka ‘Ōiwi politics of ea as an active practice for decolonization as well as deoccupation. Each chapter discusses unique yet interdependent gifts that work on and against dominant ideologies of sovereignty while simultaneously desiring, envisioning, and practicing other possibilities. In such a spirit, I share this dissertation as my own gift to envisage alternative futures in Hawai‘i that surpass settler colonial capitalism and the US settler-state.

With this pair of stories and theses in mind, the introduction advances in two ways. I first elaborate *gifts* and then explicate *sovereignty*. The initial section on gifts describes the nuts and bolts of this dissertation. I sketch out methodological frameworks and their interventions, methods of analysis, and sources of data that underpin my study of settler colonial capitalism and the Kanaka ‘Ōiwi politics of ea. This section presents the dissertation as a critically Indigenous project of Hawaiian Studies, which provides new insights in Hawaiian Studies, Indigenous Studies, and critical theory. The next section traces literature from the fields of Indigenous Studies and Hawaiian Studies in order to conceptualize sovereignty. I turn to Queer of Color Studies and Queer Indigenous Studies to bridge the diffuse understandings of sovereignty. Doing so, I theorize how performances of Hawaiian sovereignty disidentify with sovereignty and produce a Kanaka ‘Ōiwi politics of ea. Disidentification offers a necessary alternative to reading Hawaiian sovereignty, and the modern Hawaiian sovereignty movement, beyond the violence of the normative.

Gifts

The methodology in *Gifts of Sovereignty* is double-layered. My methodological framework emerges from a *mélange* of scholarly orientations and a particular theoretical lens. I want to start with my orientations because they inform the specific lens that I am forging. To begin, Hawaiian Studies is the central frame for my analysis of the Kanaka ‘Ōiwi politics of *ea*. Looking at the rise of Hawaiian Studies in the 21st century, Noelani Goodyear-Ka‘ōpua suggests that it is “a dynamic, interdisciplinary field that is constituted by practitioners in a range of diverse locations but who maintain some shared commitments and driving questions.”¹⁵ Troubling the bifurcation of research and cultural practice, she says the field consists of researchers that are practitioners of ‘ike Hawai‘i (Hawaiian knowledge). Scholars engaged in Hawaiian Studies are situated in an array of

¹⁵ Noelani Goodyear-Ka‘ōpua, “Reproducing the Ropes of Resistance: Hawaiian Studies Methodologies,” in *Kanaka ‘Ōiwi Methodologies: Mo‘olelo and Metaphor*, ed. Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright (Honolulu, HI: University of Hawai‘i Press, 2016), 1.

disciplines like history,¹⁶ literature,¹⁷ geography,¹⁸ anthropology,¹⁹ political science,²⁰ law,²¹ and American studies,²² while sharing a core set of dedications for inquiry. In this sense, the field is interdisciplinary but rooted in the study of ‘ike Hawai‘i. While the field is capacious and selectively appropriates theoretical tools for analysis from other

¹⁶ See Noelani Arista, *The Kingdom and the Republic: Sovereign Hawai‘i and the Early United States* (Philadelphia, PA: University of Pennsylvania Press, 2018); Kamanamaikalani Beamer, *No Mākou Ka Mana: Liberating the Nation* (Honolulu, HI: Kamehameha Publishing, 2014); Marie Alohalani Brown, *Facing the Spears of Change: The Life and Legacy of John Papa ‘I‘i* (Honolulu, HI: University of Hawai‘i Press, 2016); David A. Chang, *The World and All the Things upon It: Native Hawaiian Geographies of Exploration* (Minneapolis, MN: University of Minnesota Press, 2016); Kealani Cook, *Return to Kahiki: Native Hawaiians in Oceania* (Cambridge: Cambridge University Press, 2018); Lilikalā Kame‘eleihiwa, *Native Land and Foreign Desires: Pehea Lā e Pono Ai?* (Honolulu, HI: Bishop Museum Press, 1992); Jonathan Kay Kamakawiwo‘ole Osorio, *Dismembering Lāhui: A History of the Hawaiian Nation to 1887* (Honolulu, HI: University of Hawai‘i Press, 2002); Kanalu G. Terry Young, *Rethinking the Native Hawaiian Past* (New York: Routledge, 2016).

¹⁷ See ku‘ualoha ho‘omanawanui, *Voices of Fire: Reweaving the Literary Lei of Pele and Hi‘iaka* (Minneapolis, MN: University of Minnesota Press, 2014); Brandy Nālani McDougall, *Finding Meaning: Kaona and Contemporary Hawaiian Literature* (Tucson, AZ: University of Arizona Press, 2016).

¹⁸ See Renee Pualani Louis, *Kanaka Hawai‘i Cartography: Hula, Navigation, and Oratory* (Corvallis, OR: Oregon State University, 2017); Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira, *Ancestral Places: Understanding Kanaka Geographies* (Corvallis, OR: Oregon State University Press, 2014).

¹⁹ See Ty P. Kāwika Tengan, *Native Men Remade: Gender and Nation in Contemporary Hawai‘i* (Durham, NC: Duke University Press, 2008).

²⁰ See Hōkūlani A. Aikau, *A Chosen People, A Promised Land: Mormonism and Race in Hawai‘i* (Minneapolis, MN: University of Minnesota Press, 2012); Noelani Goodyear-Ka‘ōpua, *The Seeds We Planted: Portraits of a Native Hawaiian Charter School* (Minneapolis, MN: University of Minnesota Press, 2013); Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham, NC: Duke University Press, 2004).

²¹ See Williamson Chang, “Darkness Over Hawaii: The Annexation Myth Is the Greatest Obstacle to Progress,” *Asian-Pacific Law & Policy Journal* 16, no. 2 (2015): 70-115; David Keanu Sai, “American Occupation of the Hawaiian State: A Century Unchecked,” *Hawaiian Journal of Law & Politics* 1, no. 1 (2004): 46-81.

²² See Rona Tamiko Halualani, *In the Name of Hawaiians: Native Identities and Cultural Politics* (Minneapolis, MN: University of Minnesota Press, 2002); J. Kēhaulani Kauanui, *Hawaiian Blood: Colonialism and the Politics of Sovereignty and Indigeneity* (Durham, NC: Duke University Press, 2008).

disciplines, ‘ike Hawai‘i remains a primary object of analysis. I closely follow this orientation to knowledge production within Hawaiian Studies, which is unified through some fundamental commitments. In Goodyear-Ka‘ōpua’s reflection, she charts four key principles that hold together and make up this large, growing field. She writes, “We can think about *lāhui* (collective identity and self-definition), *ea* (sovereignty and leadership), *kuleana* (positionality and obligations), and *pono* (harmonious relationships, justice, and healing) as central commitments and lines of inquiry that are hallmarks of Hawaiian studies research.”²³ Each concept provides a vital principle that when woven together, as methodological ropes for research and resurgence,²⁴ offers an approach to studying ‘ike Hawai‘i grounded in our own unique ways of being and knowing. Each chapter in this dissertation considers how the *lāhui* claims, negotiates, and articulates *ea* with *kuleana* to maintain *pono* relationships with the ‘āina of Hawai‘i. The chapters employ Kanaka Maoli ontologies and epistemologies as ‘Ōiwi methodologies and methods, answering Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright’s call,²⁵ for my political analysis of sovereignty. “What distinguishes *Hawaiian studies* from *studies of Hawaiian topics* is a commitment to revitalizing the collective ability of Kanaka Hawai‘i [Hawaiian people] to exercise our *ea* in healthy, respectful, and productive ways,” according to Goodyear-Ka‘ōpua, “Hawaiian studies methodologies

²³ Goodyear-Ka‘ōpua, “Reproducing the Ropes of Resistance: Hawaiian Studies Methodologies,” 2, original emphasis.

²⁴ Ibid.

²⁵ Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright, editors’ note to *Kanaka ‘Ōiwi Methodologies: Mo ‘olelo and Metaphor*, ed. Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright (Honolulu, HI: University of Hawai‘i Press, 2016), x.

support the revitalization of vessels that promote a robust flow of ea.”²⁶ In my analysis, material culture, public testimony, activist coalitions, direct-action blockades, and even lawsuits emerge as vessels overflowing with ea. Investigating these, I aspire to “make sense of otherwise unnoticed pieces of our collective experience,” which Goodyear-Ka‘ōpua notes, “can project our ea in directions that affect our shared futures.”²⁷ As a Hawaiian Studies project, my hope is that this dissertation names and nurtures the potent power of our ea.

The dissertation is also galvanized by Indigenous Studies. “One of the duties of a Hawaiian studies scholar then is to know and critically engage with the body of published work by Kānaka,” Goodyear-Ka‘ōpua contends, “lest we unwittingly participate in their silencing and marginalization.”²⁸ Although I pursue this important duty by centering Kanaka Maoli scholars of Hawaiian Studies, this body of scholarship is not categorically engaged in Indigenous Studies. This may come as a shock to some. Not all Hawaiian Studies research is represented as Indigenous Studies. Some work in Hawaiian Studies has actually turned away from Indigenous Studies and also criticized Hawaiian Studies research that engages Indigenous Studies. For example, Hawaiian legal studies have honed an argument about sovereignty, which I explain in the proceeding section, that renders “Hawaiian” to be a marker of the Hawaiian Kingdom’s nation-state (i.e., Hawaiian nation-state) and national citizenship of the Hawaiian Kingdom (i.e., Hawaiian citizen-subject).²⁹ Premised upon the juridical doctrine of international law, the argument

²⁶ Goodyear-Ka‘ōpua, “Reproducing the Ropes of Resistance: Hawaiian Studies Methodologies,” 9, original emphasis.

²⁷ Ibid., 13.

²⁸ Ibid., 4.

²⁹ Sai, “American Occupation of the Hawaiian State: A Century Unchecked,” 51.

disassociates sovereignty from Indigeneity. In turn, research in Hawaiian Studies that considers scholarship on sovereignty from Indigenous Studies has been condemned as illegitimate for affiliating with US legal frameworks rather than an international legal perspective.³⁰ Regrettably, this analysis has seeped into other arenas. Some Hawaiian historical research denounces Indigenous critiques of colonialism in Hawai‘i as inquiry performed through a colonial gaze.³¹ Indigenous critique of colonization gets coded as colonial. Rather than reifying this methodological border and relational foreclosure, my dissertation centers Hawaiian Studies while unapologetically drawing on the field of Indigenous Studies. This orientation aids me in analyzing the Kanaka ‘Ōiwi politics of ea as well as settler colonial capitalism. On one hand, Indigenous Studies examines the ways in which Indigenous people and nations exercise sovereignty, authority, and governance outside of settler-states and their legal apparatuses.³² It is a genealogy that frames how ea is articulated beyond the US settler-state and its law. On the other hand, Indigenous Studies theorizes the intersection of settler colonialism and capitalism.³³ These theories

³⁰ David Keanu Sai, “A Slipper Path Towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its use and practice in Hawai‘i today,” *Journal of Law and Social Challenges* 10 (2008): 68-133.

³¹ Beamer, *No Mākou Ka Mana*, 9.

³² See Sarah Deer, *The Beginning and End of Rape: Confronting Sexual Violence in Native America* (Minneapolis, MN: University of Minnesota Press, 2015); Shiri Pasternak, *Grounded Authority: The Algonquins of Barriere Lake Against the State* (Minneapolis, MN: University of Minnesota Press, 2017); Audra Simpson, *Mohawk Interruptus: Political Life Across the Borders of Settler States* (Durham, NC: Duke University Press, 2014).

³³ See Isabel Altamirano-Jimeñez, *Indigenous Encounters with Neoliberalism: Place, Women, and the Environment in Canada and Mexico* (Vancouver, BC: University of British Columbia Press, 2013); Joanne Barker, “The Corporation and the Tribe,” *American Quarterly* 39, no. 3 (2015): 243-270; Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis, MN: University of Minnesota Press, 2014); Aileen Moreton-Robinson, *The White Possessive: Property,*

assist me in understanding the specific consolidation of settler colonial capital in Hawai‘i. However, this methodological integration is not absent of concern. Without careful attention to the specificities that constitute it, Hawaiian Studies can appear simply as a subfield of Indigenous Studies. The homogenization risks flattening out Hawaiian Studies to maximize the diversity and internationalism of Indigenous Studies, which may unintentionally mirror the liberal multiculturalism weaponized by institutions and individuals to erase the ontological density of Indigeneity.³⁴ However, Hawaiian Studies scholars have developed incredibly genuine and generative relations with Indigenous Studies.³⁵ Following their methodological foci, I cultivate a project engaged with Indigenous Studies that is squarely centered in Hawaiian Studies.

As a methodological intervention of the dissertation, I establish a critically Indigenous framework for Hawaiian Studies.³⁶ In Goodyear-Ka‘ōpua’s highlighting of

Power, and Indigenous Sovereignty (Minneapolis, MN: University of Minnesota Press, 2015); Shannon Speed, “Structures of Settler Capitalism in Abya Yala,” *America Quarterly* 69, no. 4 (2017): 783-790.

³⁴ See Chris Anderson, “Critical Indigenous Studies: From Difference to Density,” *Cultural Studies Review* 15, no. 2 (2009): 80-100; Aileen Moreton-Robinson, introduction to *Critical Indigenous Studies: Engagements in First World Locations* (Tucson, AZ: University of Arizona Press, 2016), 4.

³⁵ See Aikau, *A Chosen People, A Promised Land*; Chang, *The World and All the Things upon It*; Goodyear-Ka‘ōpua, *The Seeds We Planted*; J. Kēhaulani Kauanui, *Paradoxes of Hawaiian Sovereignty: Land, Sex, and the Colonial Politics of State Nationalism* (Durham, NC: Duke University Press, 2018); Lisa Kahaleole Hall, “Navigating Our Own ‘Sea of Islands’”: Remapping a Theoretical Space for Hawaiian Women and Indigenous Feminism,” *Wicazo Sa Review* 24, no. 2 (2009): 15-38; Stephanie Nohelani Teves, *Defiant Indigeneity: The Politics of Hawaiian Performance* (Chapel Hill, NC: University of North Carolina Press, 2018).

³⁶ The critically Indigenous approach to Hawaiian Studies is possible because of the prolific work of Haunani-Kay Trask, especially emanating from her groundbreaking book *From a Native Daughter*. Her scholarship, activism, and teaching pervades this dissertation. In my analysis, she continues to haunt settler colonial capitalism and the US settler-state. They cannot hide from Trask.

methodologies in Hawaiian Studies, she identifies a critical approach within Hawaiian studies.³⁷ Critical approaches in the field have “interrogated the ways that Hawaiian subjectivities (our sense of who we are, as shaped within larger relations of power) are affected and inhabited through introduced notions or categories of race, class, and gender.”³⁸ This orientation is keenly concerned with power and how techniques of power, like race, class, and gender, to name a few, produce subjectivities and normalize subjects. Scholars practicing in this genealogy “point toward the importance of Hawaiian studies methodologies that give us the ability to negotiate discrepant relations of power and authority embedded within different ways of defining and mobilizing Hawaiian identity.”³⁹ A critical Hawaiian Studies turns toward Kanaka ‘Ōiwi ways of being and knowing to interrogate and interrupt power. Hawaiian Studies critique therein takes seriously the material consequences of politics and power. Goodyear-Ka‘ōpua suggests that legal analysis fits into this approach. Agreeing with this point, I believe that Hawaiian legal studies indeed helps us to think through the political status and legal claims of Kānaka Maoli. Within this standpoint, however, the law itself can appear neutral and omniscient, which effectively reproduces power. Law in Hawaiian legal studies can be cast without criticism and held up as a coherent domain of universal truth. Although we can read this research as interrogating relations of power, like the relationship between the US federal government and Kānaka Maoli, some of these critical approaches disavow Indigeneity, Indigenous Studies, and even colonial critique.

³⁷ Goodyear-Ka‘ōpua, “Reproducing the Ropes of Resistance: Hawaiian Studies Methodologies,” 8.

³⁸ Ibid.

³⁹ Ibid.

In my project, I balance the critical approach in Hawaiian Studies together with Indigenous Studies and its understandings of Indigeneity and criticisms of colonialism. This is the first part of my critically Indigenous intervention into Hawaiian Studies.

I intervene secondarily into Hawaiian Studies by employing Indigenous critical theories. Charting the move away from 20th century Indigenous Studies that was “largely the knowledge/power domain of non-Indigenous scholars,”⁴⁰ Aileen Moreton-Robinson explores the emergence of Critical Indigenous Studies and its flourishing in the 21st century. She writes that it is transforming into a discipline, or knowledge/power domain, with distinct work that is created, taught, and shared by Indigenous scholars.⁴¹ The “critical” in Critical Indigenous Studies therein flags a separation between Indigenous and non-Indigenous analytics. Moreton-Robinson posits that research in Critical Indigenous Studies mobilizes Indigenous epistemologies and ontologies in the service of producing knowledge about intersecting forms of colonial power. As such, Jodi A. Byrd’s articulation of Indigenous critical theory in their groundbreaking work *The Transit of Empire* has revolutionized the field. “Indigenous scholars engaged in indigenous critical theories that draw on the intellectual traditions of their own histories and communities to contravene in, respond to, and redirect European philosophies,” Byrd remarks, “can offer crucial new ways of conceptualizing an after to empire that does not reside within the obliteration of indigenous lives, resources, and lands.”⁴² I apply this lens in each chapter by putting Kanaka Maoli intellectual traditions in conversation with non-

⁴⁰ Moreton-Robinson, introduction to *Critical Indigenous Studies*, 3.

⁴¹ *Ibid.*, 4.

⁴² Jodi A. Byrd, *The Transit of Empire: Indigenous Critiques of Colonialism* (Minneapolis, MN: University of Minnesota Press, 2011), 229.

Kanaka Maoli philosophies to imagine a space and time that does not sacrifice Kānaka Maoli and the ‘āina of Hawai‘i. Kim TallBear says, “We must agree to be promiscuous disciplinary travelers and radical experimental surgeons, reattaching knowledges one to another in our approaches to the problems we tackle.”⁴³ The problems that we face, as Indigenous scholars and communities, are diverse and it is certainly an appropriate strategy to address them with a diversity of tactics. Therefore, I utilize an Indigenous, critical, *and* Indigenous critical orientation to Hawaiian Studies. This is what I refer to as a critically Indigenous approach for Hawaiian Studies. The approach assists me in examining settler colonial capitalism and the Kanaka ‘Ōiwi politics of ea, especially from our own ‘ōlelo makuahine (mother tongue) and modalities of knowing and being. My analysis is “committed to and dependent on local specificity within a broader network of relationships,” as Daniel Heath Justice phrases, “a responsible but not unreflective obligation to community, a fierce commitment to truth, a robust insistence on multiplicity and complexity, and just action toward our human and other-than-human kin.”⁴⁴ From this focus, each chapter of the dissertation utilizes and repurposes an assortment of critical theories. Chapter 1 engages theories of settler colonialism and racial capitalism to analyze the historical development of settler colonial capitalism in Hawai‘i. Chapter 2 maps out a theory of biopower that intersects with geopolitics in order to criticize US federal recognition of Kānaka Maoli. Chapter 3 turns to theories of geontology to

⁴³ Kim TallBear, “Dear Indigenous Studies, It’s Not Me, It’s You,” in *Critical Indigenous Studies: Engagements in First World Locations*, ed. Aileen Moreton-Robinson (Tucson, AZ: University of Arizona Press, 2016), 73.

⁴⁴ Daniel Heath Justice, “A Better World Becoming: Placing Critical Indigenous Studies,” in *Critical Indigenous Studies: Engagements in First World Locations*, ed. Aileen Moreton-Robinson (Tucson, AZ: University of Arizona Press, 2016), 20.

interpret state-determined nation-building for Native Hawaiians and Kanaka Maoli alternatives to it. Chapter 4 unpacks theories on liberalism to probe the political economies of the Thirty Meter Telescope at Mauna a Wākea.

As the second layer in this dissertation's methodology, *the gift* offers me a specific theoretical lens for analysis. In Mimi Thi Nguyen's *The Gift of Freedom*, she theorizes the gift as a critical methodology for her study of US liberal empire.⁴⁵ Her conceptualization of *the gift* is instructive for my theorizing about *gifts*. Admitting there is a mass corpus on the gift that has engrossed anthropologists, linguists, and philosophers,⁴⁶ Nguyen draws on Jacques Derrida to conceive the aporia of giving.⁴⁷ Derrida described that the gift fashions an economy of exchange and obligation. Based on his work, Nguyen claims, "The gift as the *transfer of possession* from one to another *shapes a relation between giver and recipient that engenders a debt*, which is to say that *the gift belongs to an economy that voids an openhanded nature*."⁴⁸ A genuine gift, a possession transferred in an openhanded nature, should not be recognized by the giver, nor should the giver be known to the recipient, she alleges. The gift is not gratuitous but an aporia, which produces conditions of possibility and impossibility that, in turn,

⁴⁵ Mimi Thi Nguyen, *The Gift of Freedom: War, Debt, and Other Refugee Passages* (Durham, NC: Duke University Press, 2012).

⁴⁶ See Marcel Mauss, *The Gift: Form and Reason for Exchange in Archaic Societies*, trans. W.D. Halls (New York: W.W. Norton and Company, 2000); Georges Bataille, *The Accursed Share*, trans. Robert Hurley (New York: Zone, 1991); Marilyn Strathern, *The Gender of the Gift: Problems with Women and Problems with Society in Melanesia* (Berkeley: University of California Press, 1990).

⁴⁷ Jacques Derrida, *Given Time: I. Counterfeit Money*, trans. Peggy Kamuf (Chicago: University of Chicago Press, 1994); Jacques Derrida, *Specters of Marx: The State of the Debt, the Work of Mourning, and the New International*, trans. Peggy Kamuf (New York: Routledge, 1994).

⁴⁸ Nguyen, *The Gift of Freedom*, 7, emphasis mine.

exercise powers of domination and debt. The gift then is an alibi for power. In Nguyen's research, she contends that freedom is the smokescreen of this alibi. For instance, the liberal US gift of freedom, bestowed onto subjects like the refugee, conceals and rationalizes original conditions that make the subject "unfree" and simultaneously generates debt over time for American empire's "freeing" of the subject. This poststructuralist conceptualization of the gift is indexed through state power. Derrida suggested that to give a gift is akin to giving a blow, giving life, and giving death.⁴⁹ Registering through theories on biopolitics, Nguyen discusses how gifts are given via state techniques and instruments of power, particularly for presenting symbolic forms of freedom as a way to engender material indebtedness. The import of the gift, in her methodology, is *state power* over subjects and its endurance to shape the desires, movements, and futures of subjects *over time*.⁵⁰ With this in mind, I make a few adaptations to carve out my theory of gifts.

The importance of gifts, in my methodology, is the power to present obligations for balancing relationships over time and space. This adapted theory offers a heuristic to interpret the giving and issuance of responsibility in Kanaka Maoli claims, negotiations, and articulations of sovereignty. Reiterating Goodyear-Ka'ōpua's four guiding concepts for research in Hawaiian Studies, this configures a structure for interpretation of how the lāhui imagines and practices ea in ways that offer kuleana to cultivate pono relations across the 'āina. A gifts framework directs my main argument in the project. It thus functions dually as both a *theoretical lens* and *argument*. I argue in the dissertation that

⁴⁹ Derrida, *Given Time*, 12.

⁵⁰ Nguyen, *The Gift of Freedom*, 8.

the diverse claims, negotiations, and articulations of Hawaiian sovereignty engage in geontologies of aloha ‘āina for overturning settler colonial capitalism and the US settler-state, which present gifts that disidentify with sovereignty for envisioning and practicing the Kanaka ‘Ōiwi politics of ea to decolonize and deoccupy Hawai‘i. To develop this argument, I need to adapt Nguyen’s notion of the gift in three ways. First, gifts can be exchanged outside capital’s logic of possessive individualism. In Chapter 1, I highlight a mat that was woven from makaloa sedge with a textual message and given in 1874, as a literal gift, to the monarch of the Hawaiian Kingdom, demanding that settler capital be overturned in Hawai‘i. Instead of an individual transference of property, the mat was an assemblage of human labor and more-than-human materiality that issued a collective obligation rather than title for possessive ownership. Second, gifts can engender responsibility instead of debt. The makaloa mat administered a complex responsibility to reconsider governance in the Hawaiian Kingdom for defending and bolstering the lāhui’s national and Indigenous sovereignty. That gift called to reshape relationships between commoners and rulers to balance relations between Kānaka ‘Ōiwi and the ‘āina of Hawai‘i. Third, gifts can be forms of power beyond the state. While Nguyen views the gift as an alibi for state power, gifts are not only extended from institutions down to populations below. They also bubble up and ascend from the depths. In the proceeding chapters, I look at how Kanaka Maoli artists and activists present gifts that work on and against sovereignty to disrupt and destabilize settler-state power. In Chapter 2, mo‘olelo of opposition during public testimony against federal recognition expose a settler state of exception in Hawai‘i. In Chapter 3, an extra-legal, non-statist project for Kanaka Maoli nation-building provides an alternative to state-determined processes for nation-building

that are tied to federal recognition. In Chapter 4, legal activism coupled with direct-action blockades to protect Mauna a Wākea create a neoliberal financial crisis for the Thirty Meter Telescope and US settler-state of Hawai‘i. In my analysis, the state is not the arbiter of what constitutes a gift. These chapters demonstrate that gifts of sovereignty exercise power from the bottom-up, from Kānaka Maoli to the settler-state, providing kuleana to cultivate pono relationships in Hawai‘i. This critically Indigenous methodology in Hawaiian Studies, which I apply through the particular theoretical lens of gifts, contributes new insight to philosophies of the gift. I also intervene into Indigenous Studies by forging a new theory about sovereignty from this methodological approach and the specific geopolitical context of Hawai‘i.

With the dissertation’s methodology and methodological interventions in mind, each chapter specifies diverse approaches to methods for analyzing various sources. In Chapter 1, I utilize mo‘olelo (story, history, account) as a methodology and kaona (hidden meaning) as a reading device for historical analysis. I analyze a makaloa sedge mat, archival materials from the Bishop Museum, Hawaiian-language newspapers from the 19th century, Hawaiian Kingdom laws, and an ethnological study. Chapter 2 employs mo‘olelo as an approach to closely read official transcripts of public testimony on the Department of the Interior’s Advanced Notice for Proposed Rulemaking in 2014. This chapter uses a biopolitical theory of settler colonialism to critique the offer of US federal recognition. In doing so, I conduct a discursive analysis of federal law to interrogate an executive rulemaking procedure and its administrative rule—the Advanced Notice for Proposed Rulemaking in 2014, Notice for Proposed Rulemaking in 2015, and Final Rule in 2016. In Chapter 3, I turn to an analysis of state legislation and law. This chapter looks

at State of Hawai‘i legislation and law that fashioned a legal process for Native Hawaiian nation-building. In particular, I analyze Act 195, Act 77, and Hawai‘i Revised Statutes 10H. I complement this with an analysis of the nonprofit Na‘i Aupuni’s bylaws, contracts, and constitution, as well as a federal lawsuit against Na‘i Aupuni. Chapter 3 further examines an alternative project for Kanaka Maoli nation-building, ‘Aha Aloha ‘Āina, by analyzing its governing documents. Lastly, Chapter 4 begins with a framework on liberalism to investigate the political economies of the Thirty Meter Telescope. I mine social relations for rationalizing the project, analyzing public relations documents, management plans, a petition, and news articles that attempt to sell the Thirty Meter Telescope. Additionally, I analyze legal activisms and direct-action blockades that have thrown the development project and settler-state into a neoliberal financial crisis. In summary, the dissertation engages in historical, legal, discursive, and textual analyses of primary sources from history, law, and activism.

Sovereignty

In this section, I review conceptualizations of sovereignty from the fields of Indigenous Studies and Hawaiian Studies. I also look to Queer of Color Studies and Queer Indigenous Studies to consider non-normative theorizations of sovereignty. This is by no means an exhaustive survey. I investigate current scholarship in these fields to contribute to understanding this object of study, especially because sovereignty undergirds my exploration of settler colonial capitalism and the Kanaka ‘Ōiwi politics of ea. But it is a slippery idea, complicated category, and multidimensional theory. Therefore, I discuss sovereignty’s complexity in three parts. The first part looks at

sovereignty as a legal construct. The second part examines sovereignty as a practice. Finally, the third part explores sovereignty as a disidentification.

Although it is a ubiquitous concept that pervades Indigenous Studies and Hawaiian Studies, sovereignty has been hotly contested for its legal construction. I start tracking sovereignty for how it is discussed as a legal construct not to center juridical terminologies but to demonstrate its dominant frames of reference before elaborating on other orientations. In the edited collection *Native Studies Keywords*, sovereignty is the opening entry.⁵¹ In it, US law has contrived sovereignty to distinguish Indigenous people as a political community with a particular relationship to the federal government. This form of sovereignty, or political authority, was manufactured by the US Supreme Court in the early 19th century. In *Johnson v. M'Intosh* (1823), the Supreme Court ruled that individual citizens could not purchase land from Native Americans. Although this court established aboriginal title to be an inalienable right, the aboriginal right to land was based on the principle that Native American tribes merely maintained a right of occupancy upon land that was possessed by the federal government through discovery, conquest, and acquisition. The conferral of territorial sovereignty to tribes, through a confirmation of settler sovereignty via the doctrine of discovery, gave way to rights for self-governance. In *The Cherokee Nation v. Georgia* (1831), Chief Justice John Marshall, who penned the majority opinion in the former case, ruled that the Cherokee tribe constitutes a sovereign nation that is authorized to govern themselves. However, the decision attempted to regulate the Cherokee Nation as a domestic dependent nation and

⁵¹ Stephanie Nohelani Teves, Andrea Smith, and Michelle H. Raheja, "Sovereignty," in *Native Studies Keywords*, ed. Stephanie Nohelani Teves, Andrea Smith, and Michelle H. Raheja (Tucson, AZ: University of Arizona Press, 2015), 3.

ward of the state, rather than a foreign nation with rights to state sovereignty. Tribal sovereignty formed in this restrictive settler-state recognition of tribal authority over territory and self-governance. Lastly, in *Worcester v. Georgia* (1832), Marshall ruled that the State of Georgia did not have jurisdiction to enforce law on the Cherokee Nation's territory because it is a separate political entity with its own rule of law that the federal government, through a special trust relationship, has authority over vis-à-vis a nation-to-nation relationship. While this tried to shield tribal nations from state jurisdiction, the decision constituted tribal sovereignty as a distinct form of political authority over territory and self-governance fashioned by the Supreme Court and regulated by Congress, according to its plenary power from the US Constitution's Commerce Clause. There is much more to be said about the structure of tribal sovereignty in federal law, as well as how it gets exercised within tribal governance.⁵² Nevertheless, these Supreme Court decisions—known as the Marshall Trilogy—shape US legal constructions of sovereignty.

Scholars in the field of Indigenous Studies have debated the meaning and importance of sovereignty as constructed in US law. Some claim that Native Studies, a branch of Indigenous Studies, should focus on the study and proliferation of tribal sovereignty.⁵³ In her investigation of sexual violence in Native America, for example, Sarah Deer argues that “for tribal nations, defining and adjudicating gendered crimes is

⁵² See Joanne Barker, *Native Acts: Law, Recognition, and Cultural Authenticity* (Durham, NC: Duke University Press, 2011); Jennifer Denetdale, “Chairmen, Presidents, and Princesses: The Navajo Nation, Gender, and the Politics of Tradition,” *Wicazo Sa Review* 21, no. 1 (2006): 9-28; Kim TallBear, *Native American DNA: Tribal Belonging and the False Promise of Genetic Science* (Minneapolis, MN: University of Minnesota Press, 2013).

⁵³ *Ibid.*, 4.

the purest form of sovereignty.”⁵⁴ Elizabeth Cook-Lynn identifies that Native American Studies developed as an academic discipline to preserve tribal nations, nationhood, and sovereignty.⁵⁵ Cook-Lynn posits that the field can support and bolster sovereignty by centering Indigenous people as the scholars of Indigenous Studies. In this sense, the legal category of sovereignty influences intellectual autonomy: “Self-determination entails not only tribal self-governance but intellectual self-determination.”⁵⁶ However, this view can be mobilized in opposition to attempts to explore and promote sovereignty by engaging other academic fields. In this logic, engagement with other fields, like ethnic studies, runs the risk of diminishing the distinct import of sovereignty for Indigenous people and tribal nations, by classifying Indigenous communities as an ethnic or racial minority within the citizenry of the US nation-state, for instance. Although Indigenous peoples have been racialized as an ethnic minority for the colonization of their territories, this defense of sovereignty isolates Indigenous people away from meaningful relations with other populations that are racialized differently through US law, which consequently shuts down coalitional possibilities with other racialized peoples and fields of study. Yet, Indigenous social movements have aligned with other movements for liberation without subjugating the specificities of tribal sovereignty. For example, the Red Power movement learned and grew from the Black Power movement.⁵⁷ Vine Deloria Jr. expanded this solidarity. He asserted that the concept of sovereignty could be adopted and adapted by

⁵⁴ Sarah Deer, *The Beginning and End of Rape*, xvii.

⁵⁵ Elizabeth Cook-Lynn, “Who Stole Native American Studies?” *Wicazo Sa Review* 12, no. 1 (1997): 9-28.

⁵⁶ Teves, Smith, and Raheja, “Sovereignty,” 5.

⁵⁷ *Ibid.*

other marginalized communities.⁵⁸ As a concept that reshaped US legal constructions, Deloria suggested that sovereignty offers a critical framework to build power and autonomy for liberation from oppression through collective understandings of responsibility. As such, sovereignty does not have to signify a zero-sum game of being or nothingness.⁵⁹ One is not simply *with* or *without* sovereignty. Nevertheless, law has rendered it to be something possessed or not. Conceptualizations of sovereignty from this genealogy illustrate that “demands for Native sovereignty exist within a larger global context in which the term *sovereignty* has a prior history within Western jurisprudence.”⁶⁰ Sovereignty has indeed been constructed via US law but it is organized through a global context of western jurisprudence.

Sovereignty is a legal category created through a global matrix of imperial and colonial power. In his decision in *Worcester v. Georgia*, Chief Justice Marshall argued that tribal nations “are weak and in need of protection of a stronger state.” In support of this racist and paternalistic argument, Marshall utilized the international legal theory of Emer de Vattel. In *The Law of Nations*, Vattel claimed that the European legal and political system of treaties and common law should govern a framework for modern international relations between nation-states.⁶¹ Vattel’s theorization in the 18th century built upon the 17th century doctrines of state equality, territorial sovereignty, and national independence, which were established by the treaties of Westphalia signed in 1648. The Westphalian treaties purported to facilitate peace in Europe after the Thirty Years’ War

⁵⁸ Vine Deloria Jr., *We Talk, You Listen* (New York: Macmillan, 1970).

⁵⁹ Iyko Day, “Being or Nothingness: Indigeneity, Anti-Blackness, and Settler Colonial Critique,” *Critical Ethnic Studies* 1, no. 2 (2015), 102-121.

⁶⁰ Teves, Smith, and Raheja, “Sovereignty,” 3, original emphasis.

⁶¹ Emer de Vattel, *The Law of Nations* (Carmel, IN: Liberty Fund Inc., 2008).

took place in Central Europe. Notably, the treaties institutionalized a legal structure premised on state sovereignty whereby modern nations possess a right of non-interference within their domestic jurisdiction and affairs. This principle of state sovereignty, crafting the supreme power to control internal matters free from interference by other nation-states, exported globally through European imperialism and colonialism, and eventually American imperialism and colonialism, for the consolidation of a worldwide economic order. “Westphalian peace, as an incipient international system,” according to Douglas Howland and Luise White, “served to coordinate the rise of the global economy and, in particular, its legal and colonial institutions.”⁶² Vattel’s argument about international law expanded Westphalian sovereignty, and Marshall’s ruling applied these arguments to legitimate US settler-state sovereignty through the calculated subordination of tribal sovereignty. Exploring the influence of *The Law of Nations* in Georgia and New South Wales in the late 18th and early 19th centuries, Lisa Ford contends, “Vattel’s dismissal of indigenous property rights and indigenous sovereignty joined territory with sovereignty with new clarity—a new clarity that Anglophone settler courts read, after 1820, as an injunction to exercise jurisdiction over indigenous crime in colonial peripheries.”⁶³ Eurocentric theories of sovereignty traveled across the Atlantic Ocean to America, and elsewhere to locales like Hawai‘i, and functioned within state operations to legally construct settler sovereignty by managing Indigenous polities.

⁶² Douglas Howland and Luise White, *State of Sovereignty* (Bloomington: Indiana University Press, 2008), 3.

⁶³ Lisa Ford, *Settler Sovereignty: Jurisdiction and Indigenous People in America and Australia, 1788-1836* (Cambridge, MA: Harvard University Press, 2010), 9.

Locating its origin in an imperial and colonial genealogy, Indigenous Studies scholars suggest that sovereignty is inappropriate for Indigenous political theory and material struggles. Analyzing the Marshall Trilogy, Robert Williams asserts that legal arrangements of sovereignty for Indigenous people depend upon white supremacist constructions of Indigeneity that serve to limit, contain, and incorporate Indigenous communities within a colonial juridical order.⁶⁴ An example of this is how Marshall described tribes as weaker nations that require protection and safety from stronger nations. Aileen Moreton-Robinson refers to the logic and structure of this construction as patriarchal white possessiveness.⁶⁵ In such an order, the legal position of “Native sovereignty is not necessarily an oppositional stance in relation to the settler state” because this form is recognized and granted through the allegedly supreme political authority of settler nation-states.⁶⁶ This demonstrates “the limitations of the settler state’s recognition of indigenous sovereignty—this recognition constrains people’s exercise of sovereignty and limits their self-determination to those forms deemed permissible by federal courts and government agencies.”⁶⁷ In response, some have argued that sovereignty is an incongruous construct for Indigenous liberation. Articulating Indigenous political struggles through settler-state constructions and acknowledgements of sovereignty can be “co-opted by oppressive forms of governance that reproduce Western models of statehood.”⁶⁸ Phrasing it differently, “To frame the struggle to achieve

⁶⁴ Robert Williams, *Like a Loaded Weapon* (Minneapolis, MN: University of Minnesota Press, 2005).

⁶⁵ Moreton-Robinson, *The White Possessive*.

⁶⁶ Teves, Smith, and Raheja, “Sovereignty,” 6.

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*, 9.

justice in terms of indigenous ‘claims’ against the state is implicitly to accept the fiction of state sovereignty.”⁶⁹ Belief that political authority is bestowed by the settler-state onto Indigenous people, in this argument’s logic, is to believe in the state sovereignty of settler-nations and be complicit in manifesting it. “[T]he colonized will begin to *identify* with ‘white liberty and white justice,’” Glen Sean Coulthard argues.⁷⁰ Turning away from settler-state apprehension of Indigenous sovereignty, Coulthard recommends a rejection of the colonial politics of recognition and encourages resurgence of specific, local, and holistic theories of Indigenous political authority.

The debates on sovereignty in Indigenous Studies are reflected in Hawaiian Studies. Hawaiian legal studies is incredibly illustrative of this. David Keanu Sai’s comprehensive legal research on Hawaiian sovereignty has become a dominant fixture in the field.⁷¹ His thesis is that the Hawaiian Kingdom’s state sovereignty persists. For Sai, sovereignty is an international legal construct, associated with Vattel’s extension of Westphalian sovereignty, that defines the supreme administration of internal jurisdiction over a demarcated territory, which constitutes a legitimate nation-state when recognized by other nation-states. Hawaiian sovereignty in this estimation is a *national expression of Hawaiian state sovereignty*. Sai’s argument effectively calls into question and unsettles US jurisdiction in Hawai‘i. When the Hawaiian Kingdom’s government was overthrown on January 17, 1893, instantiating a formal occupation of the Hawaiian state’s territory, it

⁶⁹ Taiaiake Alfred, *Peace, Power, and Righteousness* (Oxford: Oxford University Press, 1999), 57.

⁷⁰ Glen Sean Coulthard, *Red Skin, White Masks: Rejecting the Colonial Politics of Recognition* (Minneapolis, MN: University of Minnesota Press, 2014), 39, original emphasis.

⁷¹ Noelani Goodyear-Ka‘ōpua, “Hawai‘i: An Occupied Country,” *Harvard International Review* (2014): 58-62.

did not extinguish the Hawaiian Kingdom’s national sovereignty. Instead, he argues that the Hawaiian nation-state continues to exist in continuity but under an illegal, prolonged, and belligerent US military occupation. For him, international law is *the* legal terrain for *properly* comprehending and exercising Hawaiian sovereignty. Employing international legal theories of classical realism and reverse power differential, he suggests that the Hawaiian state still possesses and asserts national sovereignty in three primary ways: international treaties that the Hawaiian Kingdom entered into throughout the 19th century recognize Hawaiian state sovereignty;⁷² Hawaiian state sovereignty has not been extinguished but come under illegal occupation by the US military;⁷³ an acting government of the Hawaiian state has asserted sovereignty, and been recognized, in international courts.⁷⁴ Undoubtedly, Sai’s extensive work aids me in understanding Hawaiian national sovereignty for my analysis of the Kanaka ‘Ōiwi politics of ea.

Claiming national sovereignty of the Hawaiian state continues, Sai criticizes perspectives on Indigeneity and Indigenous sovereignty in Hawaiian Studies. In his terse reading of Sally Engle Merry’s *Colonizing Hawai‘i*, Jonathan Kay Kamakawiwo‘ole Osorio’s *Dismembering Lāhui*, and Noenoe K. Silva’s *Aloha Betrayed*, Sai contends that their scholarship naturalizes a colonial and postcolonial interpretation of Hawaiian sovereignty in history.⁷⁵ The view renders the Hawaiian Kingdom to be a “vanquished aspirant that ultimately succumbed to U.S. power through colonization and superior force...A failed experiment that could not compete with nor survive against dominant

⁷² Sai, “American Occupation of the Hawaiian State,” 54.

⁷³ *Ibid.*, 70.

⁷⁴ *Ibid.*, 72.

⁷⁵ David Keanu Sai, “A Slippery Path Towards Hawaiian Indigeneity,” 70.

structures of western power.”⁷⁶ This view, which he calls paradigmatic, centers Kānaka Maoli in historical analysis of Hawaiian sovereignty. Sai flags the centering of Kānaka Maoli to be ethnocentric because the Hawaiian state is not only comprised of Kanaka Maoli citizens. The problem for him is that historical research on colonization in Hawai‘i subordinates the legal construction of state sovereignty in place for those on Indigenous sovereignty. Therefore, Sai provocatively writes:

These views only serve to bolster a history of domination by the United States that further relegates the native Hawaiian, as an indigenous group of people, to a position of inferiority and at the same time elevates the United States to a position of political and legal superiority, notwithstanding the United States’ recognition of the Hawaiian Kingdom as a co-equal sovereign State and a subject of international law. Indigenous sovereignty, being a subject of United States domestic law, had become the lens through which Hawai‘i’s [*sic*] legal and political history is filtered.⁷⁷

He contends that discourse on colonialism and postcolonialism in Hawaiian Studies highlights the Indigeneity of Kānaka ‘Ōiwi. In it, ‘Ōiwi Indigeneity is positioned as a condition of inferiority. That is, to identify as an Indigenous person is to be made inferior to citizen-subjects of the nation-state. ‘Ōiwi Indigeneity is further inferiorized through the supremacy of the US nation-state and its legal and political framework on Indigenous rights to tribal sovereignty. As a result, he argues that Kanaka Maoli claims to Indigeneity and Indigenous sovereignty hinder the national sovereignty of the Hawaiian state. Moving from Hawaiian Studies to the Hawaiian sovereignty movement in the late 20th century, Sai suggests that Kanaka Maoli activists found parallels with Indigenous struggles across the globe because of shared histories in colonialism.⁷⁸ The historical

⁷⁶ Ibid.

⁷⁷ Ibid., 71.

⁷⁸ Ibid., 106.

convergence on Indigenous struggles for sovereignty came into preeminence at this time when the United Nations fashioned rights to self-determination and decolonization after World War II. State sovereignty and international law then appeared as colonial instruments for snuffing out Indigenous political authority. As though unbecoming, Sai reflects, “It became common practice for Native Hawaiians to associate themselves with the plight of Native Americans and other ethnic minorities throughout the world who had been colonized and dominated by Europe or the United States.”⁷⁹ Sharing histories of political struggle, he posits, muddied legal distinctions. Representations of Kānaka Maoli as Indigenous people with claims to sovereignty and self-determination became incorporated into US state and federal law and mobilized for UN rights.⁸⁰ According to Sai, these political maneuvers have swindled Hawaiian Studies and the Hawaiian sovereignty movement into legitimating Indigenous sovereignty for Kānaka Maoli at the expense of Hawaiian national sovereignty. In his condemnation, Indigeneity forecloses state sovereignty and Indigenous sovereignty is antithetical to national sovereignty.

The international legal approach to sovereignty, made paradigmatic by Sai, forges a Hawaiian state exceptionalism. In this form of exceptionalism, the national sovereignty of the Hawaiian state persists in the 21st century and shapes a legal basis for the continued existence of the Hawaiian Kingdom. Other constructions and claims of sovereignty are inappropriate, incompetent, and inferior. According to the international legal doctrines and laws of occupation that Sai champions, Hawaiian state sovereignty is superior to tribal and Indigenous expressions of sovereignty. This ideology of state nationalism has

⁷⁹ Ibid.

⁸⁰ Ibid., 108.

been wielded in nefarious ways. In Sai's research, he contends that some Kanaka Maoli scholars and activists have relied on US and UN frameworks of Indigenous rights to sovereignty and self-determination. "At both these levels," he writes, "indigenous peoples were not viewed as sovereign states, but rather '*any stateless group*' residing within the territorial dominions of existing sovereign states."⁸¹ Indigeneity is a political category equated to legal statelessness. In contrast, Hawaiian state sovereignty focuses on self-governance, independence, possession of sovereignty, multi-ethnic citizenship, international laws of occupation, and protocols for deoccupation. Indigeneity disparages and taints Kānaka Maoli as non-self-governing, dependent on the US government, seeking sovereignty, ethnocentric, colonized, and appealing for decolonization.⁸² One consequence of the bifurcation is that Native American tribes and Indigenous peoples across the globe who claim Indigenous sovereignty become universalized as incapable of self-governance, domestic dependent wards of states, dispossessed of sovereign political authority, exclusive through ethnocentrism, naturally colonized, and legally inferior. "The emphasis in international law on nation-state formations predicates that indigenous peoples," Byrd writes, "remain still colonized liminally within and beside the established geopolitical and biopolitical borders and institutions of (post)colonial governance as stateless entities."⁸³ Sai's analysis, permeating Hawaiian legal studies on sovereignty, abjects Indigeneity, Indigenous people, and tribal nations while propping up the national sovereignty of the Hawaiian state. In the subsequent chapters, my analysis pays attention

⁸¹ Ibid, emphasis mine.

⁸² Ibid., 112.

⁸³ Byrd, *The Transit of Empire*, xix.

to legal claims to Hawaiian national sovereignty and how they can produce relations of power steeped in state nationalism and Hawaiian exceptionalism.

For the next part of this section, I turn to think about sovereignty as a practice. While sovereignty is unabashedly a legal concept that animates state authority, governance, and power, it is much more. Sovereignty is a multifaceted practice that Indigenous people and nations engage. In this sense, “many Native peoples have not rejected the term *sovereignty* but have redefined it to distinguish indigenous sovereignty from state power.”⁸⁴ Indigenous sovereignty signifies an expression of power that wrestles legal constructions away from the command and operations of state power. Therefore, Indigenous sovereignty is a practice of Indigenous power. In her commentary on sovereignty as an articulation, Frances Negrón-Muntaner contends, “Political communities subject to settler- and/or colonial state authority have often drawn from alternative epistemologies and infused the notion of sovereignty with different meanings and practices, as they pose a challenge to the very legitimacy, logic, and foundations of settler-state sovereign power.”⁸⁵ With historical, political, and legal baggage, Indigenous people have mobilized sovereignty in innovative ways that reshape its substance and implication for Indigenous communities as well as the settler-state. The appropriation imparts sovereignty with particular ways of knowing and being from communities articulating it. “It is also often an epistemological and ontological concept,” Negrón-Muntaner notes, “an affirmation of indigenous political traditions and governance

⁸⁴ Teves, Smith, and Raheja, “Sovereignty,” 10, original emphasis.

⁸⁵ Frances Negrón-Muntaner, introduction to *Sovereign Acts: Contesting Colonialism Across Indigenous Nations & Latinx America*, ed. Frances Negrón-Muntaner (Tucson, AZ: University of Arizona Press, 2017), 8.

systems and a critique of power that has converted (legal) acts of indigenous dispossession into acts of resistance, creativity, and/or refusal.”⁸⁶ In this section, I look at literature on Indigenous politics in Hawaiian Studies for discussions of *ea*, a unique Kanaka ‘Ōiwi practice of sovereignty. While I am interested in investigating the various legal frameworks on sovereignty and Kanaka Maoli claims to it within them, this dissertation also explores how Kanaka Maoli artists and activists articulate sovereignty beyond law and the settler-state. Meaning breath, life, to rise, as well as independence, autonomy, and sovereignty in ‘ōlelo Hawai‘i, *ea* is an enunciation that surpasses settler-state power and its legal technologies. I follow Negrón-Muntaner’s call “to think about sovereignty in the contemporary juncture requires an awareness of what can be called *geographies of sovereignty*, the diverse geopolitical and discursive locations in (and through) which the concept of sovereignty is called on to imagine, enact, or limit certain political possibilities.”⁸⁷ Attending to this, I acknowledge the legal epistemes of sovereignty while carving out methodological and analytical space to (make) sense (of) sovereignty otherwise. Indigenous sovereignty matters in law and policy as well as history, writing, bodies, and much more.⁸⁸

Emerging from ‘ōlelo Hawai‘i, *ea* describes an active set of practices that signify diverse forms of sovereignty. In her groundbreaking study of *mele* (songs) about the lāhui Hawai‘i (people and nation of Hawai‘i), Leilani Basham suggests that *ea* holds a

⁸⁶ Ibid., 15.

⁸⁷ Ibid., 6, original emphasis.

⁸⁸ See Aileen Moreton-Robinson, introduction to *Sovereign Subjects: Indigenous Sovereignty Matters*, ed. Aileen Moreton-Robinson (Crows Nest, Australia: Allen & Unwin, 2007).

multiplicity of meanings in its articulation.⁸⁹ The word, organized through Kanaka ‘Ōiwi epistemology and ontology, does not translate tidily from ‘ōlelo Hawai‘i to English as sovereignty. Instead, ea has come to symbolize sovereignty. Although it means breath, life, and to rise, these meanings have been infused with political and legal notions of autonomy, independence, and sovereignty. In *A Nation Rising*, Goodyear-Ka‘ōpua argues that ea is “an active state of being.”⁹⁰ It is an embodied practice, evolving over time and space, for “the mutual interdependence of all life forms and forces.”⁹¹ This is an expansive conceptualization of sovereignty that is centered on interdependent independence. The sovereignty of the people and nation depends upon the sovereignty of the land, and vice versa. “Like breathing,” Goodyear-Ka‘ōpua says, “ea cannot be achieved or possessed; it requires constant action day after day, generation after generation.”⁹² Passed through genealogical successions, it has emerged as a philosophy and ethic that undergirds Kanaka Maoli movements for life, land, and sovereignty. In this dissertation, I examine how diverse practices of sovereignty, which collectively work on and against dominant notions of sovereignty, produce a unified Kanaka ‘Ōiwi politics of ea. My hope in this endeavor is to shift the conceptual register in Hawaiian Studies, and the Hawaiian sovereignty movement, away from sovereignty’s normative strivings.⁹³ As a guiding philosophy and ethic, ea is distinctively equipped to do so.

⁸⁹ Leilani Basham, “Ka Lāhui Hawai‘i: He Mo‘olelo, He ‘Āina, He Loina, a He Ea Kākou,” *Hūlili: Multidisciplinary Research on Hawaiian Well-Being* 6, no. 1 (2010): 37-72.

⁹⁰ Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 4.

⁹¹ Ibid.

⁹² Ibid.

⁹³ See Roderick A. Ferguson, “Of Our Normative Strivings: African American Studies and the Histories of Sexuality,” *Social Text* 84/85, no. 1 (2005): 85-100.

Although the national sovereignty of the Hawaiian Kingdom has overdetermined ea, it has been practiced as an Indigenous form of sovereignty for Kānaka Maoli. After a foreign incursion that threatened to seize the national sovereignty of the Hawaiian government came to close in 1843, Kamehameha III, the third Mō‘ī (monarch and ruler) of the Hawaiian Kingdom, proclaimed: ua mau ke ea o ka ‘āina i ka pono. The common translation of this phrase is: the life and sovereignty of the land is perpetuated in righteousness. Kamehameha III’s proclamation became the official motto of the Hawaiian Kingdom, which was recognized as an independent nation-state by Britain and France in the Anglo-French Proclamation, only a few months later. The Anglo-French Proclamation is the foundational international treaty that Hawaiian legal scholars reference to claim the persistence of Hawaiian state sovereignty. This interpretation, however, has overdetermined ea through state nationalism. According to J. Kēhaulani Kauanui, “In the Kanaka context, Indigenous sovereignty has yet to be properly documented let alone theorized because the legacy of the kingdom overwhelms Hawaiian political genealogies.”⁹⁴ Rethinking the Hawaiian Kingdom’s state nationalism, Kauanui examines the film *Hawai‘i: A Voice for Sovereignty*. She tracks an important revision to the common interpretation of the Hawaiian Kingdom’s official motto. Captured in the film, during a community event to celebrate the international recognition of the Hawaiian Kingdom’s national sovereignty, scholar and activist Kaleikoa Ka‘eo reflected on Kamehameha III’s proclamation. He says, “What’s important here in the Hawaiian concept: ua mau ke ea o ka ‘āina. Ke ea o ka ‘āina, the life of the land, the sovereignty of the land is that very place.” Ka‘eo reiterates the translation of ea and highlights that the Kanaka

⁹⁴ Kauanui, *Paradoxes of Hawaiian Sovereignty*, 28.

‘Ōiwi understanding of life and sovereignty is linked to land. This tilts the index from state power toward Indigeneity. Criticizing constructs of state sovereignty from western jurisprudence and law, he observes, “Hawaiians don’t see that their sovereignty comes from a particular king. Our sovereignty does not come from a constitution. The sovereignty doesn’t come from the gun. The sovereignty doesn’t come from arms.”

Ka‘eo suggests that ea does not emanate from Kauikeaouli, his constitution and monarchical government, or militaristic force. “Sovereignty comes from the land,” he argues. “So even according to our own cultural understandings,” Ka‘eo concludes, “the land itself is our sovereignty.” His remarks are reminiscent of the ‘ōlelo no‘eau (wise saying): he ali‘i ka ‘āina; he kauwā ke kanaka (the ‘āina is ruler; the kanaka are its servants).⁹⁵ Ka‘eo demonstrates ea as a Kanaka Maoli practice to cultivate human life, independence, and sovereignty by maintaining pono or balanced relationships with the ‘āina, which translates not just to *land* but also *that which feeds*. In summary of this reinterpretation, Kauanui claims, “Here we see the potential of Kanaka Maoli indigeneity to undermine notions of Western state power with a nonproprietary relationship to the land as the foundation.”⁹⁶ Goodyear-Ka‘ōpua has also invoked Ka‘eo’s reinterpretation, which Basham shares further,⁹⁷ through ‘ōlelo Hawai‘i and Kanaka Maoli epistemology and ontology. Goodyear-Ka‘ōpua writes that this “has called our attention to the fact that the king did not reaffirm the sovereignty of the government (ke ea o ke aupuni) but rather the sovereignty of the life of the land itself (ke ea o ka ‘āina), to which Kanaka are

⁹⁵ See Mary Kawena Pukui, *‘Olelo No ‘eau: Hawaiian Proverbs and Poetical Sayings* (Honolulu, HI: Bishop Museum Press, 1983), 531.

⁹⁶ Ibid.

⁹⁷ Basham, “Ka Lāhui Hawai‘i,” 54.

inextricably connected.”⁹⁸ Ea came to represent national sovereignty of the Hawaiian state in the 1840s when Kanaka Maoli leaders, like Kauikeaouli and many others, sought to protect political autonomy in Hawai‘i by selectively appropriating western ideas and tools of statecraft.⁹⁹ But, the Indigenous Hawaiian practice of ea, which Ka‘eo and Basham establish and Kauanui and Goodyear-Ka‘ōpua analyze, predates the Hawaiian Kingdom’s constitutional monarchy and statist expression of sovereignty. It is a practice that supplants the spatialized temporality of state power in the Hawaiian Kingdom and US settler-state of Hawai‘i.

Ea exists outside of Eurocentric constructs of sovereignty, the nation-state, and law, and refers to active Kanaka Maoli practices that signify diverse enunciations of sovereignty. For instance, Kanaka Maoli sovereignty takes shape from the ea of the ‘āina. Looking at an article from August 12, 1871 in *Ka Nupepa Kuokoa*, a 19th century Hawaiian-language newspaper, Goodyear-Ka‘ōpua highlights the published speech of an ‘Ōiwi orator who questioned the import of ea. In his speech, Davida K. Kahalemaile—whose name I am proud to share—queried his audience about the day that Kauikeaouli uttered his famous proclamation, which became known as Lā Ho‘iho‘i Ea (Sovereignty Restoration Day). Kahalemaile asked, “Heaha la ke ano o ia hopunaolelo, ‘Ka la i hoihoia mai ai ke Ea o ko Hawaii Pae Aina’? (What is the meaning of this phrase, ‘The day the ea of the Hawaiian archipelago was returned’?)”¹⁰⁰ Goodyear-Ka‘ōpua identifies that Kahalemaile posed this rhetorical question and answered it with an enumerated list.

⁹⁸ Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 4.

⁹⁹ Beamer, *No Mākou Ka Mana*, 104.

¹⁰⁰ Davida K. Kahalemaile, “Haiolelo a Davida K. Kahalemaile,” *Ka Nupepa Kuokoa*, August 12, 1871.

He said, “1. Ke ea o na i-a, he wai. 2. Ke ea o ke kanaka, he makani. 3. O ke ea o ka honua, he kanaka...4. Ke ea o ka moku, he hoeli...5. Ke ea o ko Hawaii Pae Aina...Oia no ka noho Aupuni ana. (1. The ea of the fish is water. 2. The ea of humans is wind. 3. The ea of the earth is the people...4. The ea of a boat is the steering blade...5. The ea of the Hawaiian archipelago, it is the government.)”¹⁰¹ A kind of call and response, Kahalemaile discussed ea as a central rubric for the interdependence of life and sovereignty in Hawai‘i. The water provides ea for fish. The wind gives ea to humans. People are the ea of earth. The steering blade of boats is ea. The Hawaiian government breathes ea into the islands of Hawai‘i. In essence, ea is a cornerstone for survival where people flourish by maintaining the responsibility to keep the whole ecosystem balanced and healthy. Goodyear-Ka‘ōpua incisively argues:

The list culminates with the statement that the ea of Hawai‘i is its independent government. The holiday celebrates the return of life to that government in the wake of a threat to its very survival. In this list, then, Kahalemaile emphasizes that ea is necessary for life and that political independence is necessary for the well-being of the people. Yet he also shows how the meanings of ea surpass state-based forms of sovereignty.¹⁰²

Moreton-Robinson’s comprehensive definition of Indigenous sovereignty, from the geopolitical context of Australia, helps to frame the Kanaka Maoli sovereignty articulated through ea. She posits, “Our sovereignty is embodied, it is ontological (our being) and epistemological (our ways of knowing), and it is grounded within complex relations derived from the intersubstantiation of ancestral beings, humans and land. In this sense, our sovereignty is carried by the body and differs from Western constructions of

¹⁰¹ See Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 5.

¹⁰² Ibid.

sovereignty.”¹⁰³ Indigenous practices of sovereignty in Hawai‘i align with her particular yet capacious definition. “Moreton-Robinson’s theory of Indigenous sovereignty is relevant to Hawai‘i since Indigenous Kanaka sovereignty (premonarchical) also happens to be widely understood as embodied,” Kauanui observes, “grounded within complex relations among and between myriad deities, humans, ancestral beings, the land, and all of the natural world ties.”¹⁰⁴ Kauanui’s claim that ea is an embodied practice within a system of genealogical kin relations across human and more-than-human subjects is indeed exemplified by Kahalemaile’s speech.

In this dissertation, ea provides a holistic orientation for examining Kanaka Maoli legal claims, historical negotiations, and diverse articulations of sovereignty, especially as they can be practiced beyond the US settler-state and its legal orbit. The claims, negotiations, and articulations of national and Indigenous Hawaiian sovereignties that I study constitute what I call the Kanaka ‘Ōiwi politics of ea, which collectively reflects the diversity of strategies and tactics within the Hawaiian sovereignty movement. This provides a more robust angle for studying sovereignty in Hawai‘i. “It is not enough to claim you are sovereign as Indigenous,” Joanne Barker writes, “you must be accountable to the kinds of Indigeneity the sovereignty you claim asserts.”¹⁰⁵ Although ea exists outside of the US settler-state and its law, the fight over federal recognition, nation-building, and astronomy industry development is undeniably conducted on the temporal and spatial borders of the liberal democratic settler-state. The Kanaka ‘Ōiwi politics of

¹⁰³ Moreton-Robinson, introduction to *Sovereign Subjects*, 2.

¹⁰⁴ Kauanui, *Paradoxes of Hawaiian Sovereignty*, 27.

¹⁰⁵ Joanne Barker, introduction to *Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies*, ed. Joanne Barker (Durham, NC: Duke University Press, 2017), 35.

ea, then, represents a third space of sovereignty in which the battle for liberation is waged in “political struggle that occurs on, across, and against the boundaries of American politics.”¹⁰⁶ Gifts of sovereignty presented in these sites of struggle reside “neither simply inside nor outside the American political system but rather exists on these very boundaries, exposing both the practices and the contingencies of American colonial rule.”¹⁰⁷ As such, the Kanaka ‘Ōiwi politics of ea can seem quite strange, appearing almost out-of-time and out-of-place within the normative frames of sovereignty. In this sense, there is something queer, or odd and non-normative, about ea that helps to grasp a collective unity in the gifts of sovereignty.

In the final part of this section, I trace scholarship from Queer of Color Studies and Queer Indigenous Studies to consider sovereignty as a disidentification. The literature in these fields offer conceptual tools for understanding how the gifts that I examine in this dissertation disidentify with sovereignty. Issuing responsibility to balance relations, the gifts work on and against dominant ideologies of sovereignty to create alternative futures and worlds. While they are practiced in particular ways and sites, they maintain a collective unity through their disidentificatory performance. I discuss queer theories for how they offer a way out of sovereignty’s normativity, providing a necessary bridge between the legal constructions and embodied practices that may seem incommensurate. This is a queering of sovereignty that I hope can sustain Hawaiian legal studies on sovereignty and the Indigenous politics of ea as co-constitutive rather than mutually exclusive. Therefore, queer theory assists me in reading Kanaka Maoli claims,

¹⁰⁶ Kevin Bruyneel, *The Third Space of Sovereignty: The Postcolonial Politics of U.S.-Indigenous Relations* (Minneapolis, MN: University of Minnesota Press, 2007), xvi.

¹⁰⁷ *Ibid.*, xvii.

negotiations, and articulations of sovereignty as unique disidentifications with sovereignty that collectively perform and produce the Kanaka ‘Ōiwi politics of ea.

In *Disidentifications*, José Esteban Muñoz details that minoritarian subjects—racialized, gendered, and sexualized peoples measured against the majoritarian public—face three modes of subjectivization.¹⁰⁸ In the first mode, subjects identify with dominant discourses and ideologies. In the second, subjects outright reject them.

“Disidentification,” Muñoz suggested, “is the third mode of dealing with dominant ideology, one that neither opts to assimilate within such a structure nor strictly opposes it.”¹⁰⁹ As a performative practice, he elucidated how minoritarian subjects work on and against the power of ideology. Disidentification is a strategy of survival within minoritizing and oppressive regimes of power. Specifically, Muñoz theorized disidentification as an embodied performance for imagining and actualizing queer utopias as alternatives to majoritarian theories, publics, and power. What if we began to think of practices of Indigenous sovereignty as embodied performances that work on and against western theories, settler publics, and colonial state power for imagining and actualizing alternatives to the regimes of power that animate dominant ideologies of sovereignty? “Instead of buckling under the pressures of dominant ideology (identification, assimilation) or attempting to break free of its inescapable sphere (counteridentification, utopianism),” Muñoz wrote, “this ‘working on and against’ is a strategy that tries to transform a cultural logic from within, *always laboring to enact permanent structural change* while at the same time *valuing the importance of local or everyday struggles of*

¹⁰⁸ José Esteban Muñoz, *Disidentifications: Queers of Color and the Performance of Politics* (Minneapolis, MN: University of Minnesota Press, 1999).

¹⁰⁹ *Ibid.*, 11

*resistance.*¹¹⁰ This theory aids me understanding how the gifts that I examine in this project disidentify with sovereignty as a local, everyday strategy of resistance and survival while simultaneously laboring to enact permanent structural change. Looking at an assortment of critical theories on subject formation, ideology, and power, Muñoz synthesized that rebelling against dominant ideological forces, hailing and interpellating subjects, cannot be reduced to the work of a “bad subject” who ought to strive toward becoming a “good subject.” Instead, failing to be intelligible in the theater of apprehension can be liberating. There are of course contradictions on the ideological stage, such as those played out in debates about sovereignty. But “like a melancholic subject holding on to a lost object, a disidentifying subject works to hold on to this object and invest it with new life.”¹¹¹ The imbuing of fresh life for an alternative world signals critical hope for something better. It is a practice of creating different futures. Thus, disidentification is a temporal performance. “This building takes place *in the future and in the present*,” Muñoz noted, “which is to say that disidentificatory performance offers a utopian blueprint for a possible future while, at the same time, staging a new political formation in the present.”¹¹² In subsequent work, he expanded on this queering of time.

Muñoz claimed in *Cruising Utopia* that gay pragmatism, manufactured in Queer Studies and queer activism, produces a discourse of antirelationality and antiutopianism that shuts down possibilities and potentialities for utopic relationality in place for the here and now.¹¹³ This antirelationality and antiutopianism is loosely mirrored in Hawaiian

¹¹⁰ Ibid., 11-12, emphasis mine.

¹¹¹ Ibid., 12.

¹¹² Ibid., 200, original emphasis.

¹¹³ José Esteban Muñoz, *Cruising Utopia: The Then and There of Queer Futurity* (New York: New York University Press, 2009).

legal studies, which typically views sovereignty in opposition to Indigeneity and suggests they cannot exist together. Arguing against this, Muñoz contended that the here and now should be replaced for imagining then and there, a queer futurity that refuses racialized, gendered trappings of heteronormative time. In the here and now contrived by Sai, this trapping occurs through state pragmatism. The sovereignty of the Hawaiian *Kingdom* flows from a temporal power, bracketing the Indigenous subject in an anachronistic condition of inferiority wherein the reproduction of legitimate nations and international progress toward global modernity are stymied. Differently, a then and there is “a longing that propels us onward, that thing that lets us feel that this world is not enough, that indeed something is missing.”¹¹⁴ Queerness is a future-dawning tense that critiques the present by considering pasts and potentially possible futures. Muñoz said, “The here and now is a prison house. We must strive, in the face of the here and now’s totalizing rendering of reality, to think and feel a *then and there*.”¹¹⁵ This queer utopia maintains a positive valence and negative function; it is a forward projection that forges critique. Glimpses of queer utopia function to refuse the here and now for a then and there. Perhaps it is a way to consider how critiques of state nationalism that undergird international legal claims to Hawaiian sovereignty may actually project the lāhui forward. “The here and now is simply not enough,” Muñoz elaborated, “queerness should and could be about a desire for another way of being in both the world and time, a desire that resists mandates to accept that which is not enough.”¹¹⁶ In this sense, the state pragmatism that creates Hawaiian exceptionalism is not enough. Ea is an active, diverse

¹¹⁴ Ibid., 1.

¹¹⁵ Ibid., original emphasis.

¹¹⁶ Ibid., 96.

practice for another way of knowing our sovereignty and for another way of being sovereign. There is a glimpse of queerness in Indigenous sovereignty, as it can work on and against legal constructions of sovereignty, practicing and performing alternatives that interrupt colonial normativities of time and space. This is a flux whereby the here and now can be transcended by a then and there. It is a temporal disorganization, which is explored throughout the proceeding chapters, that reconfigures how we belong, relate, and see collective (queer) potentiality amidst (heteronormative time's) hopelessness.¹¹⁷

Juana María Rodríguez puts Muñoz's arguments into direct conversation with sovereignty.¹¹⁸ She makes explicit connections between Queer of Color Studies and Queer Indigenous Studies, which are indispensable for my queer reading of Hawaiian sovereignty. In *Sexual Futures*, Rodríguez critiques settler-state power by highlighting queer Latina gestures of sexual sovereignty in Puerto Rico. She likens sexual sovereignty to national sovereignty as both exercise self-determination, autonomy, and independence within relations of power that mediate (non)consensual interactions between bodies, people, and nations. For example, in 1997, Margarita Sánchez de León testified before the Puerto Rican House of Representatives against a bill proposing to prohibit same-sex marriage. During her testimony, a representative interrupted Sánchez de León to ask if she was a lesbian. Days later Sánchez de León turned herself into the Sexual Crimes Division of the Justice Department, confessing that she had violated anti-sodomy laws. However, she was not charged since the anti-sodomy law, named Artículo 103, only criminalized penetration with a penis. Sánchez de León subsequently filed a lawsuit

¹¹⁷ Ibid., 187.

¹¹⁸ Juana María Rodríguez, *Sexual Futures, Queer Gestures, and Other Latina Longings* (New York: New York University Press, 2014).

against Artículo 103, which set off a time bomb regarding sexual rights and national sovereignty. After the Court of Appeals decision in *United States v. Sanchez* (1993), Puerto Rico submitted to Congress' plenary power and became subject to US Supreme Court rulings. However, three days before the Supreme Court handed down its decision to dismantle the criminalization of sodomy in *Lawrence v. Texas* (2003), the Puerto Rican Senate eliminated Artículo 103 from its penal code because of pressure from Sánchez de León and other queer Latina activists. Their assertions of sexual sovereignty compelled statutory change in Puerto Rico before the US settler-state could do so. Rodríguez argues that "the Senate vote signaled the elimination of Artículo 103 as a political gesture of self-determination, free from direct U.S. intervention."¹¹⁹ Queer Latina activists praised this as victory for the people of Puerto Rico, not for queer American liberalism. "Admitting to sodomy and surrendering to the state," Rodríguez posits, "activists like Sánchez de León have redefined the *failed masculinity of the nation* as an empowered femininity that affirms the power and pleasure possible through a gesture of submission, a submission that engulfs, transforms, and redeploys that which sought to subjugate it."¹²⁰ It was a submission that disidentified with Puerto Rican sovereignty to destabilize the heteromasculine normativity of the state. Rodríguez analyzes an image that depicts Sánchez de León with a large smile after the repeal of Artículo 103. "The smile on her face suggests that she, a confessed sodomite," she observes, "took considerable pleasure in *fucking with the state*."¹²¹ This "fucking with the state" is sexual sovereignty, working on and against dominant ideologies of sovereignty

¹¹⁹ Ibid., 89.

¹²⁰ Ibid., 93-94.

¹²¹ Ibid., 94, emphasis added.

to exercise temporal self-determination over sexual rights. Queer Latina activists fucked with the state(s) by forcing Puerto Rico's legislature to repeal the anti-sodomy statute before the US judiciary could. Longing for a then and there on the island, (national) Puerto Rican and (Indigenous) Taíno gestures articulated sovereignty exterior to the juridical power of the US settler-state.

The sexual sovereignty that Rodríguez theorizes is operationalized by what Mark Rifkin calls Indigenous temporal sovereignty. In *Beyond Settler Time*, he argues that time has been used by the US settler-state to cast Indigenous peoples as anomalies in normative calculations of law and politics.¹²² Extending queer theorizations by Muñoz and Rodríguez, Rifkin contends that heteronormative time is actually a temporal frame of reference structured through settler colonialism. It is settler time. Indigenous communities are not only anomalous in US settler-state law and politics but also strange subjects against the backdrop of settler time. "Native landedness and duration," he maintains, "appear as something of a queer deviation."¹²³ The geographic pulse and momentum of Indigeneity comes across as queer within settler time. Rifkin says, "Native peoples and sovereignties appear as a temporal aberration within a geography defined by the normalization of settler law."¹²⁴ Indigenous people and their sovereignties index a cadence that is at odds with the legal territorialization of settler-states. Given this, I wonder then how Indigenous people might *fuck with the state* by giving it a *rough time*? Specifically, I wonder how Kanaka Maoli claims, negotiations, and articulations of

¹²² Mark Rifkin, *Beyond Settler Time: Temporal Sovereignty and Indigenous Self-Determination* (Durham, NC: Duke University Press, 2017), 60.

¹²³ *Ibid.*, 68.

¹²⁴ *Ibid.*, 93.

sovereignty refuse and submit to settler time? The answer may be located in Indigenous temporal sovereignties. Drawing upon the work of Audra Simpson and Glen Coulthard in Indigenous Studies,¹²⁵ Rifkin posits that Indigenous temporal sovereignty emerges in a refusal of the *colonial here and now*. It is an Indigenous and queer refusal that longs for a *decolonized then and there*. This is useful for thinking about ea. Ea can be read as an active practice and embodied performance of Indigenous temporal sovereignty that refuses the colonial here and now for a *decolonized then and deoccupied there* in Hawai‘i. Nevertheless, refusing the settler-state is not tantamount to refusing settler time. Rifkin adds:

The notion of temporal sovereignty occupies this space of *potentiality* and *difficulty*, partaking of the need to signify Native being-in-time while also attending to how becoming temporally intelligible to settlers may be the vehicle for enacting forms of ‘state aggression’ and interpellation. In this way sovereignty indicates both the need to engage non-Native discourse and expectations (such as the anachronizing image of static Indianness) and the importance of acknowledging modes of temporal experience that do not conform to settler orientations, backgrounds, and frames.¹²⁶

For instance, Sai’s international legal claims to Hawaiian national sovereignty have refused the US settler-state’s juridical orbit yet identified the Hawaiian state as a *modern nation* by suggesting that Indigeneity is a *pre-modern condition of inferiority*. This is an example of settler temporal recognition whereby Indigeneity “serves as a symbol of backward relations to time, of insurmountable melancholic investments in the past in contrast to the putative straightness of time’s passage.”¹²⁷ Cutting across eras and

¹²⁵ Simpson, *Mohawk Interruptus*; Coulthard, *Red Skin, White Masks*.

¹²⁶ Ibid., 183, emphasis mine.

¹²⁷ Rifkin, *Beyond Settler Time*, 39.

continents, Sai's argument sustains the juridical cunning of settler time, produced by folks like Emer de Vattel and John Marshall.

Disidentifying with sovereignty is simultaneously a disidentification with time. It is an effort to work on and against dominant ideologies of sovereignty that requires working on and against settler time, as the prevailing temporal orientation. For Indigenous peoples and nations, this disidentification is, in it of itself, an articulation of temporal sovereignty, which entertains placing the Native intelligibly as enduringly landed while also engaging alternative temporalities that are unintelligible to the settler-state and its operations of power. It is a strategic practice for everyday resistance and survival, betwixt oppressive regimes of power, that seeks to create alternative futures and other worlds. In the following chapters, I use this theorization to grasp how gifts of sovereignty disidentify with dominant notions of sovereignty and time as a way of issuing responsibilities for sustaining space. Intervening into Queer of Color Studies, Queer Indigenous Studies has hoped not only for queer utopia but a decolonial future accompanied by decolonized methodologies and territories.¹²⁸ It is not enough to queer sovereignty, by considering it a disidentification that coalesces legal constructions and embodied practices of sovereignty, as I have done here. Reading the queerness of Hawaiian sovereignty, as I am setting out to do, requires “[t]he queer in Indigenous studies,” which Byrd writes, “challenges the queer of queer studies by offering not an identity or a figure necessarily, but rather an analytic that helps us relocate subjectivity

¹²⁸ See Qwo-Li Driskill, Chris Finley, Brian Joseph Gilley, and Scott Lauria Morgensen, introduction to *Queer Indigenous Studies: Critical Interventions in Theory, Politics, and Literature*, ed. Qwo-Li Driskill, Chris Finley, Brian Joseph Gilley, and Scott Lauria Morgensen (Tucson, AZ: University of Arizona Press, 2011), 18.

and its refusals back into the vectors of ongoing settler colonialism.”¹²⁹ In particular, then, I turn to Queer Indigenous Studies to relocate Indigeneity in theories of disidentification and to locate Indigenous disidentifications with sovereignty. This assists me in unpacking how Kanaka Maoli claims, negotiations, and articulations of sovereignty work on and against sovereignty and time to refuse the historical formation and contemporary manifestation of settler colonial capitalism in Hawai‘i.

Sovereignty is indispensable yet inadequate for my study of settler colonial capitalism and the Kanaka ‘Ōiwi politics of ea. The scholarship in Indigenous Studies illustrates that sovereignty is a legal construction, animated through an imperial and colonial matrix of power, which regulates and disciplines Indigenous subjects. In other words, it has been imposed upon and asserted by Indigenous communities. Research in Hawaiian legal studies on the national sovereignty of the Hawaiian state demonstrates this. However, Indigenous Studies shows that sovereignty, despite its juridical attachments, can be repurposed for practices of Indigenous power. Under the flag of Westphalian sovereignty, tribal sovereignty, or Indigenous sovereignty, Indigenous communities reformat sovereignty in ways that rip its command away from state power. But, as work on Indigenous politics in Hawaiian Studies illuminates, Indigenous modalities of political authority have come to symbolize sovereignty. Predating the Hawaiian Kingdom’s internationally recognized state sovereignty, ea is a Kanaka ‘Ōiwi concept that means breath, life, to rise, and also represents autonomy, independence, and sovereignty. In this body of literature, ea is a uniquely Kanaka Maoli way of knowing

¹²⁹ Jodi A. Byrd, “*Loving Unbecoming: The Queer Politics of the Transitive Native*,” in *Critically Sovereign: Indigenous Gender, Sexuality, and Feminist Studies*, ed. Joanne Barker (Durham, NC: Duke University Press), 226.

sovereignty and being sovereign, centered on active practices for interdependent independence with the ‘āina in Hawai‘i. In this dissertation project, the legal claims, historical negotiations, and diverse articulations of Hawaiian sovereignty that I mine produce the Kanaka ‘Ōiwi politics of ea. Each of the proceeding chapters highlight gifts that are entrenched in these claims, negotiations, and articulations of sovereignty. The gifts work on and against dominant ideologies of sovereignty; they disidentify with sovereignty. Disidentification theory has taken shape from scholarship in Queer of Color Studies, and it enables me to read the diversity of strategies and tactics in the Hawaiian sovereignty movement as a collective unity, rather than division and fragmentation. It is a queer reading that attempts to fill artificial gaps in the relations between supposedly separate practices for Hawaiian sovereignty. Put another way, the normative silos and seemingly natural splits in Hawaiian sovereignty come into closer focus when engaged through the queer rubric of disidentification. Gifts of sovereignty in struggles against settler capital, federal recognition, nation-building, and astronomy industry development share a united performance: they work on and against dominant notions of sovereignty. As these gifts disidentify with sovereignty, acting out a strategy for resistance and survival, they also issue responsibilities for balancing relationships in Hawai‘i. Put differently, gifts of sovereignty present kuleana for sustaining pono relations with the ‘āina of Hawai‘i. Drawing on revisions in Queer of Color Studies made by Queer Indigenous Studies, for situating Kanaka Maoli disidentifications with sovereignty and time, the gifts of sovereignty perform ea in ways that desire and act out *alternative* futures and worlds in Hawai‘i, which ultimately refuse the colonial here and now for a decolonized then and deoccupied there.

Chapter 2

Settler Colonial Capitalism in Hawai‘i

On April 27, 1874, a specially-designed mat was given to the Mō‘ī of the Hawaiian Kingdom. Although the historical archive on it is scant, two prominent Hawaiian-language newspapers discussed this particular mat in 1874. *Ka Nupepa Kuokoa* published an article on April 29 with the headline “HE MOENA PAWEHE MAKANA,” which means a gift of a patterned mat (see figure 1).¹³⁰ The article identified that Kala‘i, a Kanaka ‘Ōiwi master weaver from the island of Ni‘ihau, wove the mat given to the Mō‘ī at that time, David Kalākaua. Celebrated as an experienced and skilled weaver of Ni‘ihau, Kala‘i plaited letters into the mat that spell out a brilliant message. It took eleven months to complete and Kala‘i’s husband assisted in the process but died one month

HE MOENA PAWEHE MAKANA.—Ma ka Po-
akahi aku nei, ua huawi makana ia mai e
Mr. G. S. Gay o Niuhau i ka Moi Kalakaua,
he moena pawehē nani i ulanaia e ko Ni-
hau kaikamahine maamaalea ia hana he
ulana, oia o Kalai. Ua ulanaia keia moe-
na me ke akahēle no ka Moi i make ka ma-
nao ona, aka, ua hala e kela, a nolaila, ua
ili iho ka hooko ana no ka Moi hou. Ua
hana akamai maoli ia no, oiai, ua ulana pu
ia na huaolelo malalo iho maloko o kona
mau maka moena. He 11 na masama o ka
ulana ia anajai, a i ka umi nae o ka mala-
ma, make kana kane mare, a ua hoopaa
loa aku oia i ko laua lohi. I kuai ia mai
ia G. S. Gay i lilo ai. Eia iho na olelo i
ulanaia maluna ona :

Figure 1. HE MOENA PAWEHE MAKANA. Source: *Ka Nupepa Kuokoa*.¹³¹

¹³⁰ “HE MOENA PAWEHE MAKANA,” *Ka Nupepa Kuokoa*, May 2, 1874.

¹³¹ Ibid.

before it was finished (see figure 2). A noticeable blank space is centered at the top of the mat, near the message's conclusion, and it is believed to signify the passing of her husband. The extent at which he helped in gathering, processing, and weaving is uncertain. What is clear, based on the timing and placement of the empty space, is that Kala'i memorialized him, honoring his relationship to her and likely his labor with her to produce the mat. Perhaps this absent presence is a symbol of the mourning and urgency

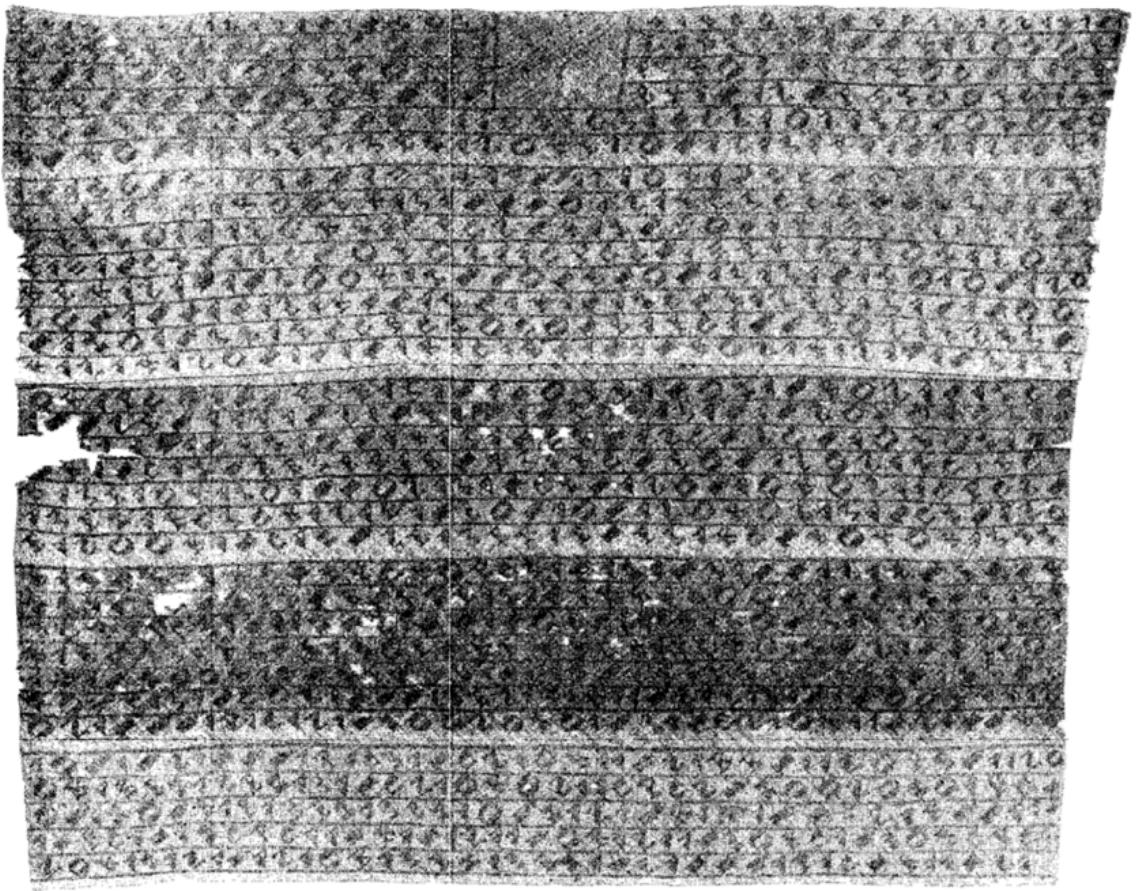


Figure 2. Silhouette of moena pāwehe kūikawā. Source: Bishop Museum.

that connected Kala'i to her message. This gift was not without (see figure 3). Published on April 29 with the title “HE MAKANA ANA HOU I KA MOI,” meaning a new type of gift for the Mō'i, an article in *Ko Hawaii Pono* specified that the mat was woven from

makaloa sedge (see figure 4).¹³² Makaloa, or *Cyperus laevigatus*, is a renowned perennial sedge that flourished in 13 fresh and brackish water bogs on Ni‘ihau. Although makaloa sedge grew on other islands like Kaua‘i, O‘ahu, Maui, Kaho‘olawe, and Hawai‘i, the mats crafted from it became famously known as moena Ni‘ihau, or Ni‘ihau mats, and revered the makaloa and wāhine (female) weavers of it that together came from Ni‘ihau island. Kala‘i’s mat is a testament to the interconnected relationship that Kānaka ‘Ōiwi

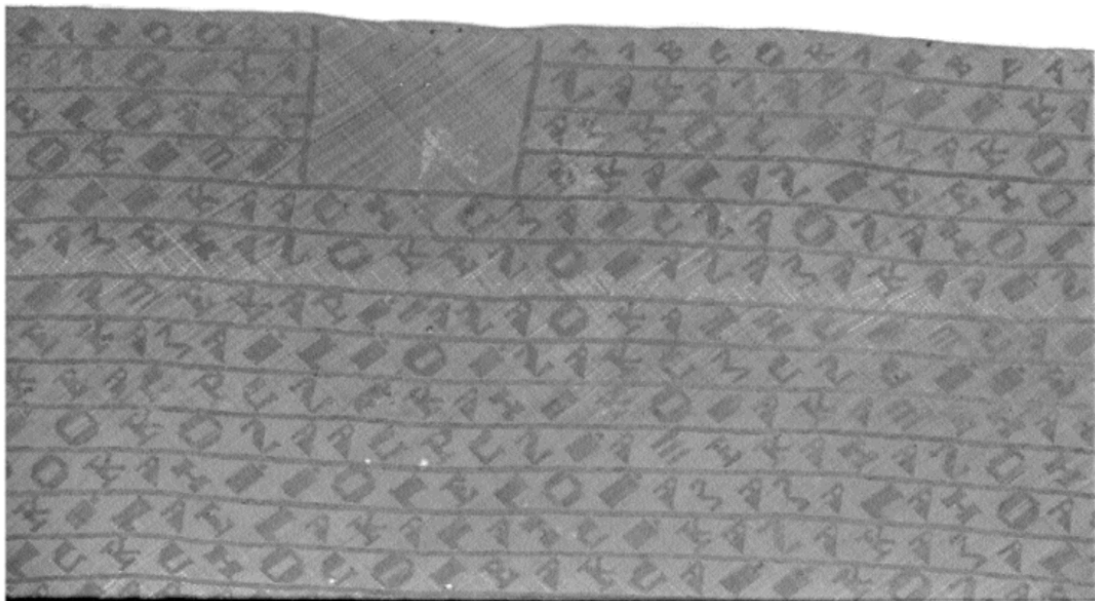


Figure 3. Enlargement of empty space centered at top of mat. Source: Bishop Museum.

share with the ‘āina of Hawai‘i. These articles suggested that George S. Gay acquired the mat, either on Ni‘ihau where his family had settled or Kaua‘i where Kala‘i resided, and presented it to Kalākaua while passing through O‘ahu.

¹³² “HE MAKANA ANA HOU I KA MOI,” *Ko Hawaii Pono*, April 29, 1874.

HE MAKANA ANO HOU I KA MOI.—Ma ke
kakabiaka Poakahi iho nei, ua haawi maka-
na aku o Mr. Geo. S. Gay i ka Moi, he mo-
ena makoloa. He mea ano nuhou ole na
moena makoloa ia kakou, koe wale no na
mahalo ana i ka nani a me ka noeau o na
ulana ana e like me na hoopani ana a ka
mea ulana; aka, o keia moena makoloa i
haawi ia aku i ka Moi, ua ulana pu ia me
keia mau huaolelo malalo iho :

Figure 4. HE MAKANA ANA HOU I KA MOI. Source: *Ko Hawaii Pono*.¹³³

Kalākaua received the mat shortly after becoming the second elected Mō‘ī of the Hawaiian Kingdom (see figure 5). Kala‘i intended for the mat to be given to the former Mō‘ī, William Lunalilo, but he died abruptly and ruled only from 1873 to 1874. Designed for Lunalilo but presented to Kalākaua, Kala‘i’s textual message inquires about the degradation of Kānaka Maoli. It narrates how the Kanaka Maoli population decreased throughout the 19th century alongside governance changes in the Hawaiian Kingdom. The message concludes by demanding that a specific economic policy—the institutionalization of *animal taxes* mandated to be paid in *money*—should be overturned to liberate the lāhui from the burden it installed. This burden was the introduction, adoption, and settlement of capital. The mat did not just critique money and capital but also the beginning of settler colonization. In the early 1840s, capital activated settler colonialism in Hawai‘i, coalescing into a system of settler colonial capitalism bent on the destruction of Kānaka Maoli. As Kala‘i conveyed concern over the Hawaiian Kingdom’s political economy, this chapter engages in a political economic analysis of the mat and its

¹³³ Ibid.

message. Three days after receiving the mat, Kalākaua convened the Hawaiian Kingdom's legislature to inaugurate his administration. He initiated his reign as sovereign under the slogan "Ho'oulu Lāhui: Increase the Race." But ho'oulu lāhui does not translate simply from 'ōlelo Hawai'i to English as increase the race. Ho'oulu can be translated as to grow or to protect. When considering that lāhui also means nation, nationhood, and people, there is more meaning found in Kalākaua's statement. Ho'oulu lāhui is a suggestion to grow the nation(hood) and protect the people. How might we reinterpret the political slogan ho'oulu lāhui, which issued a momentous call for Kanaka Maoli cultural revitalization and nationalism in the late 19th century, in the context of the gift of a patterned mat that Kalākaua was given just three days before his declaration? Referred to then as the moena makaloa (makaloa mat) and moena pāwehe (plaited mat), it has more recently been called moena pāwehe kūikawā, a specially-designed mat.¹³⁴ In the opening chapter of this dissertation, I track how Kala'i fashioned and bequeathed the moena (mat) as a political economic protest that identified the development and criticized the violence of settler colonial capitalism in Hawai'i.¹³⁵ What exactly was she protesting? How was the protest articulated and interpreted? How does Kala'i's mat demonstrate ho'oulu lāhui, growing and protecting the lāhui, as a form of agency in the midst of and

¹³⁴ Kiele Akana-Gooch, "He Moena Pāwehe Kūikawā: A Specially-Designed Mat," *Ka Ho'oilina: The Legacy 2*, (2003): 150-173.

¹³⁵ I use the terms moena (mat), moena makaloa (makaloa mat), moena pāwehe (plaited mat), moena pāwehe kūikawā (specially-designed mat), and moena pāwehe makana (gifted patterned mat) as references to Kala'i's mat. Each holds specific meanings, as I have translated and described. But, I use all of these terms to refer to Kala'i's particular mat in order to hold together representations from Hawaiian-language newspapers in the 19th century as well as the ways in which the mat has been represented in the 20th and 21st centuries. I do this purposefully in order to honor the multiplicity of meanings imbued in this piece of material culture.

resistance to encroaching forces of coercion, subjugation, and ruin? These are crucial questions that I endeavor to answer.



Figure 5. Moena pāwehe kūikawā. Source: Bishop Museum.

I examine Kala‘i’s moena to historicize and theorize the formation of settler colonial capitalism in Hawai‘i. In the first section of this chapter, I etch out my method to analyze the moena pāwehe kūikawā. It is a complicated piece of material culture that requires a nuanced method for analysis. Engaging in an integrated Kanaka ‘Ōiwi method, I investigate the mo‘olelo (history, story, account) of the moena for its kaona (hidden meaning). Looking at historiographic and literary scholarship in the field of Hawaiian Studies, I explain mo‘olelo and kaona, delineating their importance for my analysis of the moena and its expression of sovereignty. In the second section, I show how settler colonial capitalism surfaced in Hawai‘i during the early 1840s, before the institutionalization of policies that privatized land and enshrined legal forms of property in the late 1840s. Analyzing the textual message and political economy of the moena, I map out when and how colonial capitalism settled in Hawai‘i. Complementing an intricate reading of the moena pāwehe’s plaited text, I analyze Hawaiian-language

newspapers published in the late 19th century and archival documents from the Bishop Museum. Turning to theories of settler colonialism and racial capitalism, settler capital operationalized the US settler-state in Hawai‘i by consolidating as a structure of power that could corrode the national sovereignty of the Hawaiian Kingdom and Indigenous sovereignty of Kānaka Maoli. Studies of Hawaiian sovereignty therein must account for settler colonial capitalism rather than considering *either* settler colonialism *or* capitalism. In the third section, I explore how Kala‘i’s message woven into the moena has been distorted. Mining an ethnological study, anthropological knowledge production, and Marxist discourse on class-struggle, the mat became normalized as a protest against taxes instituted by greedy, tyrannical, and incompetent ali‘i (rulers) of the Hawaiian Kingdom. The moena pāwehe was weaponized to deface and mar both national and Indigenous sovereignty of Kānaka Maoli. In the fourth section, I return to the moena makaloa and posit that it is not a normative protest of class struggle but, instead, a mo‘olelo with kaona that identifies how animal taxes were linked to the introduction and adoption of capital as a way to dispossess Kānaka Maoli of land and eliminate Kānaka Maoli by eradicating relations to each other and the ‘āina. In her own words, Kala‘i demanded “e hoololi” to overturn the violent formation of settler colonial capitalism in Hawai‘i. The materiality of the moena offers another mo‘olelo infused with kaona, which demonstrates that Kala‘i refused settler colonial capital by practicing aloha ‘āina as a geographic way of being for cultivating and defending ‘āina. This reveals new insights about the history and praxis of aloha ‘āina as anti-colonial *and* anti-capitalist. Kala‘i’s moena is a gift of sovereignty, which offers a new approach to understanding the Kanaka ‘Ōiwi politics of ea by identifying and criticizing settler colonial capitalism.

In Chapter 1, I contend that settler colonial capital was imposed and adopted in Hawai‘i during the early 1840s, and settler colonial capitalism developed as a way to dismantle the national sovereignty of the Hawaiian Kingdom and the Indigenous sovereignty of Kānaka Maoli. However, I argue that the message and materiality of Kala‘i’s moena identified settler colonial capital, and its complex operations to disassemble Kanaka Maoli sovereignties, and creatively sought to overturn how it became imposed in Hawai‘i and adopted into the governance of the Hawaiian Kingdom.

Mo‘olelo and Kaona

Mo‘olelo and kaona are Kanaka ‘Ōiwi methods of analysis conceived in Hawaiian Studies, particularly from the concentrations of Hawaiian historiography and Hawaiian literary criticism. To begin this section, I position my analysis to intervene within the field of Hawaiian Studies. After tracking methodological commitments for mo‘olelo and kaona, I explicate how I utilize mo‘olelo and kaona to analyze the moena pāwehe kūikawā. I use them together as an integrated method for the study of Hawaiian sovereignty not just in the past but in the present and future.

In this chapter, I intervene explicitly into a critical debate that Hawaiian Studies contends with about agency, resistance, and history. The debate is organized around two myths produced through colonial historiography. The first myth is that Kānaka Maoli are disempowered subjects that have been stripped of agency at the hands of colonial domination.¹³⁶ Lilikalā Kame‘eleihiwa and Jonathan Kay Kamakawiwo‘ole Osorio write

¹³⁶ Gavan Daws, *Shoal of Time: A History of the Hawaiian Islands* (Honolulu, HI: University of Hawai‘i Press, 1968); Caroline Ralston, “Hawaii 1778-1854: Some Aspects of Maka‘āinana Response to Rapid Cultural Change,” *Journal of Pacific History*, no. 19 (1984): 21-40.

about how imperialism and colonialism constrained Kanaka Maoli governance, spiritual beliefs, and relations with ‘āina.¹³⁷ But they also point out that Kānaka Maoli demonstrated agency, as active not passive subjects, within and exterior to oppressive systems of power like western religion and law. As a more recent example, Noelani Goodyear-Ka‘ōpua investigates how students and faculty of Hālau Kū Māna, a Hawaiian culture-based charter school in Honolulu, O‘ahu, exercise pedagogical sovereignty and educational self-determination despite being measured by curriculum standards of the US settler-state that are steeped in policies for American assimilation.¹³⁸ Wrestling specifically with the question of how Kānaka Maoli have exerted agency within larger structures of power, Kamanamaikalani Beamer posits that, historically, ali‘i appropriated western ideas and tools in such a way that maintained agency for Kānaka Maoli and mana (power and authority) for the lāhui.¹³⁹ To make this claim, he theorizes a mode of interpretation called ‘Ōiwi optics, which tries to unsettle studies of Hawaiian history that have allegedly been conducted through a colonial gaze.¹⁴⁰ He states, “I use an ‘Ōiwi

¹³⁷ Lilikalā Kame‘eleihiwa, *Native Land and Foreign Desires: Pēhea Lā e Pono ai?* (Honolulu, HI: Bishop Museum Press, 1992); Jonathan Kay Kamakawiwo‘ole Osorio, *Dismembering Lāhui: A History of the Hawaiian Nation to 1887* (Honolulu: University of Hawai‘i Press, 2002).

¹³⁸ Goodyear-Ka‘ōpua, *The Seeds We Planted*.

¹³⁹ Beamer, *No Mākou ka Mana*.

¹⁴⁰ The scholarship that Beamer references, which he contends is performed through a colonial gaze that limits agency for Kānaka Maoli, includes Haunani-Kay Trask’s *From a Native Daughter*, Lilikalā Kame‘eleihiwa’s *Native Land and Foreign Desires*, Jon Osorio’s *Dismembering Lāhui*, and Noenoe Silva’s *Aloha Betrayed*. I point this out because it seems to be a misreading of their work. Their scholarship is theoretically sophisticated and, in fact, mirrors what Beamer identifies as the selective appropriation that ali‘i performed in developing the statecraft of the Hawaiian Kingdom’s governance. Although I appreciate Beamer’s desire to tell mo‘olelo outside of colonialism, his methodology parrots those of some legal studies on sovereignty within Hawaiian Studies that suggest critiques of colonization and talk of colonialism derail international legal claims to Hawaiian state sovereignty. Beamer maintains, “The material

optics as a means to reframe colonial discourse on the Hawaiian Kingdom while highlighting the ways that ‘Ōiwi engaged foreigners and foreign concepts.”¹⁴¹ An ‘Ōiwi optic breaks down the myth of passivity by shifting the optical frame, or interpretative approach, to center the continuity of actions taken by Kānaka Maoli throughout history. Although I think that Beamer’s argument is an important one, which productively asserts Kānaka Maoli have not been stripped of agency, I believe there is more complexity to take into account. I try to emulate such complexity in this chapter. Beamer suggests an ‘Ōiwi optic is not concerned with what haole did to Kānaka Maoli but what “‘Ōiwi *did for themselves*.”¹⁴² When discussing the perspectivalism of Kanaka ‘Ōiwi geographies of exploration, David A. Chang writes, “Kānaka could look out at the world from a standpoint that was confidently centered in their own islands.”¹⁴³ According to the epistemological perspectivalism highlighted by Chang, seeing what Kānaka Maoli did for themselves and what haole did to Kānaka Maoli and Hawai‘i *are not mutually exclusive*. I explore how the multiple mo‘olelo produced by Kala‘i, as an agent of knowledge production, and represented in the moena pāwehe makana, as the innovative medium for her message, criticize what Kānaka Maoli *and* haole did.

The second myth is that Kānaka Maoli did not resist cultural erosion and national disenfranchisement.¹⁴⁴ This myth suggests that Kānaka Maoli were not only docile, as the

effects of colonialism on the Hawaiian Islands occur only after the illegal overthrow of Lili‘uokalani in 1893.” However, I show in this chapter that colonization began occurring in the early 1840s. My analysis of Kala‘i’s moena evidences how settler colonization was opened up through the introduction and adoption of capital, beginning first in 1841.

¹⁴¹ Ibid., 13

¹⁴² Ibid., 12, original emphasis.

¹⁴³ Chang, *The World and All the Things upon It*, 22.

¹⁴⁴ Ralph Simpson Kuykendall, *The Hawaiian Kingdom. Vol. 3: 1874-1893, The Kalakaua Dynasty* (Honolulu, HI: University of Hawai‘i Press, 1967)

first conveys, but they were also benign and benevolent. Dissecting colonization in Hawai‘i, Noenoe K. Silva observes that scholarship coming out of colonial historiography established and disseminated the myth of complacency to US colonialism.¹⁴⁵ But, tracing a wide array of Hawaiian-language newspapers from the 19th and early 20th centuries, she argues that Kānaka Maoli emphatically resisted imperialism, empire-building, and colonialism. Simply put, Kānaka Maoli did not consent to their marginalization and disenfranchisement. “The Europeans and Euro-Americans sought to exploit the land and subjugate the people,” Silva writes, “and the people fought back in a variety of ways.”¹⁴⁶ For example, members of Hui Kālai‘āina and Hui Aloha ‘Āina—both male and female branches of these coalitions—organized, collected, and distributed the Kū‘ē Petitions to oppose the proposed US annexation of the Hawaiian islands. Silva powerfully identifies that the Kū‘ē Petitions, signed by more than 38,000 Kānaka Maoli, including my great-great grandfather C.B. Maile, evince how Kānaka Maoli resisted US annexation and persuaded the US Senate to vote down a treaty of annexation in 1897.¹⁴⁷ Resistance also occurred in covert ways. As white Euro-American subjects acquired political power in the Hawaiian Kingdom’s government during the 1860s and began publishing propaganda in newspapers to articulate haole supremacy over Kānaka Maoli, the lāhui wrote back. Silva suggests that mo‘olelo (tales and legends), mele (songs), oli (chants), and mo‘okū‘auhau (genealogies) were published by Kānaka Maoli to resist representations of inferiority by illustrating the richness of ‘Ōiwi ways of life, such as ‘ōlelo Hawai‘i. In many cases, as I detail in the next part of this section, the mo‘olelo,

¹⁴⁵ Silva, *Aloha Betrayed*.

¹⁴⁶ *Ibid.*, 2.

¹⁴⁷ *Ibid.*, 151.

mele, oli, and mo‘okū‘auhau contained kaona with hidden meanings that rallied anti-colonial resistance and were illegible to most haole subjects. Building on Silva’s work, ku‘ualoha ho‘omanawanui contends that mo‘olelo about the akua (goddesses) Pele and Hi‘iaka, circulated in Hawaiian-language newspapers between 1860 and 1928, are literary texts steeped in Hawaiian nationalism that worked to overturn haole misappropriations and mistranslations of such stories, accounts, and narratives.¹⁴⁸ Brandy Nālani McDougall notes the epic mo‘olelo about Pele and Hi‘iaka, as well as those regarding Papahānaumoku (Earth Mother and foundation that births islands), Wākea (Sky Father and expansive sky), and the Kumulipo, have been deployed in contemporary ‘Ōiwi literature as a form of what she calls kaona connectivity that emphasizes genealogical kinship relations and contests historical erasures.¹⁴⁹ Kala‘i’s moena pāwehe kūikawā provides another mo‘olelo of how Kānaka Maoli sustained agency, employed kaona, and exercised resistance to fight against Euro-American colonization and, as I will demonstrate, settler colonial capitalism.

Mo‘olelo provides an ‘Ōiwi method for analyzing histories, stories, and accounts. In their edited collection discussing research tools for Kānaka ‘Ōiwi, Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright suggest that mo‘olelo is a concept, reflecting our own epistemology and ontology, which operates both as method and methodology.¹⁵⁰ The term mo‘olelo itself “describes what is felt and

¹⁴⁸ ho‘omanawanui, *Voices of Fire*.

¹⁴⁹ McDougall, *Finding Meaning*.

¹⁵⁰ Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright, introduction to *Kanaka ‘Ōiwi Methodologies: Mo‘olelo and Metaphor*, edited by Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright (Honolulu, HI: University of Hawai‘i Press, 2016).

thought about ancient times. *Mo‘olelo* as a text category allows for the flow of this account to be unabashedly personal and emotional as well as scholarly.”¹⁵¹ Although *mo‘olelo* literally means history, story, and account when translated from ‘ōlelo Hawai‘i, *mo‘olelo* functions concomitantly as a method to analyze the histories, stories, and accounts of Kānaka Maoli. “To rethink the Native Hawaiian past,” writes Kanalu G. Terry Young, “is to assert the doing of *mo‘olelo*.”¹⁵² This offers me an active framework for tracking historical documents, stories entrenched in material culture, and narrative accounts in texts, which have been authored by Kānaka Maoli for Kānaka Maoli in our own ‘ōlelo makuahine (mother tongue). A *mo‘olelo* method enables me to read the histories, stories, and accounts presented by the moena pāwehe kūikawā, particularly as they are represented in the text and materiality of the moena since it is a woven piece of material culture that contains a textual message plaited in ‘ōlelo Hawai‘i.

Mo‘olelo also offers an alternative reading of history. Methodologically, it decenters and disrupts colonial historiography, which has spawned marginalizing myths about the lāhui. For example, employing *mo‘olelo* as an analytical tool, Kame‘eleihiwa recodes the narrative, produced and normalized through western historiography, that the Hawaiian Kingdom’s Māhele of 1848 was a governmental policy that failed *maka‘āinana* (commoners and citizens) because *ali‘i* divided up lands and instituted rights for *haole* to purchase and own land. Instead, Kame‘eleihiwa shows it was an attempt by the *ali‘i* to share *ea* and *mana* with *maka‘āinana*, rather than a policy to divide or damage the lāhui.

¹⁵¹ Kanalu G. Terry Young, *Rethinking the Native Hawaiian Past* (New York & London: Routledge, 2012), 3, original emphasis.

¹⁵² *Ibid.*, 24.

This is what Beamer might call “giv[ing] voice to a story outside of colonialism.”¹⁵³ Mo‘olelo, I suggest, facilitates an interpretation of history, on one hand, to signal that Kānaka Maoli endured the past and persisted into the present and, on the other hand, to imagine futures beyond colonial understandings of time and settler colonial temporalities. “A proper mo‘olelo,” Osorio says, “delivers lessons from the past that ought to guide our present behavior.”¹⁵⁴ Extending the idea that mo‘olelo are contoured by the past yet future-oriented, Goodyear-Ka‘ōpua argues, “In looking to the past, we inform the decisions and commitments that will shape our futures.”¹⁵⁵ I utilize this framework to appropriately analyze the mo‘olelo of Kala‘i’s moena not just because it comes out of material culture from the 19th century but because this is a mo‘olelo that should guide our present and inform our futures. Claiming mo‘olelo is a crucial methodology for transformation, Kaiwipunikauikawēkiu Lipe maintains, “It is critical to listen to mo‘olelo as they are told, to share mo‘olelo with others, and to use those mo‘olelo to learn, teach, connect, and make sense of the world.”¹⁵⁶ Indeed, the preceding chapters are guided and informed by Kala‘i’s transformative mo‘olelo—a profound gift. Viewed this way, mo‘olelo disturb and exceed colonial and settler colonial notions of time, which bracket Indigenous people as passive, consenting, and anachronistic subjects that are always already disappearing, vanishing, and dying,¹⁵⁷ by demonstrating how Kānaka Maoli have

¹⁵³ Beamer, *No Mākou ka Mana*, 9.

¹⁵⁴ Osorio, *Dismembering Lāhui*, 3.

¹⁵⁵ Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 30.

¹⁵⁶ Kaiwipunikauikawēkiu Lipe, “Mo‘olelo for Transformative Leadership: Lessons from Engaged Practice,” in *Kanaka ‘Ōiwi Methodologies: Mo‘olelo and Metaphor*, ed. Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright (Honolulu, HI: University of Hawai‘i Press, 2016), 53-71.

¹⁵⁷ See Barker, *Native Acts*; Byrd, *The Transit of Empire*; Jean M. O’Brien, *Firsting and Lasting: Writing Indians Out of Existence in New England* (Minneapolis,

survived. Osorio laments, “History should instruct the living, not merely memorialize the dead.”¹⁵⁸ Reading and sharing mo‘olelo is not simply about remembering our past but also analyzing the ways that our lāhui continues to thrive. As this orientation illuminates, mo‘olelo with kaona like that of Kala‘i’s moena elucidate that settler colonialism, despite operating as a pervasive system of power, is a project that fails to fully dispossess, replace, and eliminate Kānaka ‘Ōiwi.

Kaona is another method that I use. Kaona functions for me as a Kanaka Maoli reading practice to interpret veiled messages and hidden meanings imbued within the moena pāwehe kūikawā. Mary Kawena Pukui and Samuel H. Elbert define kaona as “hidden meaning, as in Hawaiian poetry; concealed reference, as to a person, thing or place; [and] words with double meanings.”¹⁵⁹ Extending their definition to claim kaona is a comparative historical method, Noelani Arista reflects that “paying attention to *kaona* in my translation of Hawaiian texts, I was especially moved by the way in which Hawaiian composers actively selected their words, reaching for the interconnected meanings and contexts evoked by words across a spectrum of Hawaiian oral traditions and handwritten and published texts.”¹⁶⁰ The crafting of kaona is moving for its intricacy and miscellany. But kaona is not just complex and diverse; it is also political. Silva states, “An awareness of the political functions of kaona, especially the possibilities for veiled

MN: University of Minnesota Press, 2010); Elizabeth A. Povinelli, *The Cunning of Recognition: Indigenous Alterities and the Making of Australian Multiculturalism* (Durham, NC: Duke University Press, 2002); Mark Rifkin, *Beyond Settler Time*.

¹⁵⁸ Osorio, *Dismembering Lāhui*, 260.

¹⁵⁹ Mary Kawena Pukui and Samuel H. Elbert, *Hawaiian dictionary* (Honolulu, HI: University of Hawai‘i Press, 1986), 130.

¹⁶⁰ Noelani Arista, “Navigating Uncharted Oceans of Meaning: Kaona as Historical and Interpretive Method,” *PMLA* 125, no. 3 (2010): 666, original emphasis.

communication, helps in analyzing the words and actions of the Kanaka Maoli.”¹⁶¹ The linguistic interconnectedness and multiplicity of kaona has “presented even greater opportunities to express anticolonial sentiments.”¹⁶² Such anticolonial sentiment could be expressed without detection. Considering how kaona is unintelligible to most haole subjects, ho‘omanawanui says, “This is why Kanaka ‘Ōiwi-produced texts can be read as political strategies embodying resistance, especially as they involve cultural and linguistic coding in multiple ways, including the use of mele, kaona, and so forth. This strategy of resistance worked because it was well executed, playing to dismissive colonial attitudes that wrote off mo‘olelo.”¹⁶³

Kaona allows me to analyze the mat’s mo‘olelo, which is critical of both settler colonialism and capitalism, and yet concealed from their structural recognition and grids of intelligibility. Analyzing the mele “Kaulana Nā Pua” written for Lili‘uokalani, the Mō‘ī of the Hawaiian Kingdom after Kalākaua, during her imprisonment by the white supremacist oligarchy backed by US military forces, Haunani-Kay Trask details that the kaona in this mele eluded haole subjects trying to suppress resistance.¹⁶⁴ Trask recalls an academic discussion with a haole historian in which he suggested there was no real evidence that Kānaka Maoli opposed US annexation.¹⁶⁵ To refute this claim, she presented lyrics from “Kaulana Nā Pua” written by Ellen Keho‘ohiwaokalani Wright Prendergast. Trask invokes a specific passage that states:

Kaulana nā pua a‘o Hawai‘i
Kūpa‘a ma hope o ka ‘āina

¹⁶¹ Silva, *Aloha Betrayed*, 8.

¹⁶² *Ibid.*, 5.

¹⁶³ ho‘omanawanui, *Voices of Fire*, 200.

¹⁶⁴ Trask, *From a Native Daughter*.

¹⁶⁵ *Ibid.*, 118.

Hiki mai ka ‘elele o ka loko ‘ino
Palapala ‘ānunu me ka pākaha

‘A‘ole a‘e kau i ka pūlima
Ma luna o ka pepa o ka ‘ēnemi
Ho‘ohui ‘āina kū‘ai hewa
I ka pono sivila a‘o ke kanaka.

When translated, these lyrics say:

Famous are the children of Hawai‘i
Who cling steadfastly to the land
Comes the evil-hearted
With a document greedy for plunder

Do not put the signature
On the paper of the enemy
Annexation is wicked sale
Of the civil rights of the Hawaiian people.¹⁶⁶

As the mele’s underlying message eluded haole (foreigners and settlers) initiating military occupation of Hawai‘i, its kaona escaped the haole historian. He “answered that this song, although beautiful, was not evidence of either opposition or of imperialism from the Hawaiian perspective.”¹⁶⁷ Although the spoken lyrics in ‘ōlelo Hawai‘i seem beautiful—a racialized, gendered, and sexualized construction of exoticism—the meaning, without translation, is not interpreted as resistance. What is striking about this example is how Trask shows that kaona antagonizes the recognition, gaze, and system of colonial power. In this chapter, I add that kaona also antagonizes capitalist relations of power. Importantly then, kaona requires kuleana to interpret messages and find meanings. ho‘omanawanui suggests that kaona functions as a meiwi (poetic device), which “places kuleana on the audience not just to make their own meaning from a text, but also to

¹⁶⁶ Ibid.

¹⁶⁷ Trask, *From a Native Daughter*, 120.

extract the layers of intended meaning; there is an expectation on the writer's part that context and meaning can be constructed by their audience with minimal explanation."¹⁶⁸ This is precisely why McDougall claims kaona as an interpretative method based in genealogy, kinship relations, and collectivity inasmuch as it is a creative one for composing furtive meanings. For her, "The term 'kaona connectivity' describes how kaona, as a practice, requires us to connect with our kūpuna [ancestors] as well as each other."¹⁶⁹ Reading for these historical yet contemporary connections is a key ingredient to my integrated method. Most studies reading for kaona within mo'olelo mine textual materials, from mele to oli and other kinds of palapala (literary documents). Aside from important research on the performance of hula (dance) done by Silva as well as Renee Pualani Louis and Maya L. Kawailanaokeawaiki Saffery,¹⁷⁰ few studies have examined how kaona is articulated in materiality whether via (human) performance or (more-than-human) matter. Employing mo'olelo and kaona as methods to investigate Hawaiian history, my analysis contributes to the vast, vibrant body of historical and literary work in Hawaiian Studies by looking at the mo'olelo of the moena pāwehe makana as material culture embedded with kaona in both its textuality *and* materiality.

Moena Pāwehe Makana

The moena pāwehe makana contains an elaborate mo'olelo entrenched with kaona to change taxes on animals to overturn the imposition and adoption of capital and its

¹⁶⁸ ho'omanawanui, *Voices of Fire*, 74

¹⁶⁹ McDougall, *Finding Meaning*, 5.

¹⁷⁰ Louis, *Kanaka Hawai'i Cartography*; Maya L. Kawailanaokeawaiki Saffery, "He Ala Nihinihi Ia A Hiki I Ka Mole: A Precarious Yet Worthwhile Path to Kuleana Through Hawaiian Place-Based Education," in *Kanaka 'Ōiwi Methodologies: Mo'olelo and Metaphor*, ed. Katrina-Ann R. Kapā'anaokalāokeola Nākoa Oliveira and Erin Kahunawaika'ala Wright (Honolulu, HI: University of Hawai'i Press, 2016), 109-135.

ordering system of settler colonial capitalism. Approximately 7-feet wide and 6-feet tall, there are five horizontal panels connected vertically with 1,253 woven characters. Sitting at a diagonal angle and read from left to right upwards, the letters spell out Kala‘i’s message. I want to think outside the dominant discourse about this message, which, as I elaborate in the following section, alleges the mat advocates proletarian revolution. But rather than omitting Marxism from my analysis, I promiscuously and selectively appropriate it. My theoretical promiscuity avoids the colonial trap that isolates Indigenous knowledge production away from other formations of knowledge and opens up other scholarship, fields of study, and theories for our use.¹⁷¹ Specifying the methodological move, Goodyear-Ka‘ōpua posits that selective promiscuity, “draw[s] heavily on our ‘Ōiwi lineage” while “selectively bring[ing] in other lineages or thinkers who provide us with traction to move the lāhui forward.”¹⁷² While using mo‘olelo and kaona to analyze the moena, I selectively draw on Marxism as well as theories of settler colonialism and racial capitalism, to provide more traction to move the lāhui forward. This contributes to what Byrd argues is Indigenous critical theory, which draws upon “indigenous epistemologies and the specificities of the communities and cultures from which it emerges and then looks outward to engage European philosophical, legal, and cultural traditions in order to build upon all the allied tools available.”¹⁷³

Theories of settler colonialism and racial capitalism assist in framing the historical development and material formation of settler colonial capitalism in Hawai‘i.

¹⁷¹ Audra Simpson and Andrea Smith, introduction to *Theorizing Native Studies*, ed. Audra Simpson and Andrea Smith (Durham, NC: Duke University Press, 2014).

¹⁷² Noelani Goodyear-Ka‘ōpua, “Reproducing the Ropes of Resistance,” 9.

¹⁷³ Byrd, *The Transit of Empire*, xxix-xxx.

My analysis of the moena contributes in the project called for by Coulthard of “reestablishing the colonial relation of dispossession as a co-foundational feature of our understanding of and critical engagement with capitalism.”¹⁷⁴ In his reconfiguration of Marx’s theory of so-called primitive accumulation, it is the dispossession of land from Indigenous people that violently opened up territories and resources for labor markets to coerce subjects to sell their labor and be alienated from it. Put another way, relations of capital—production, exchange value, profit, accumulation, and development—were made possible primarily by dispossessing Indigenous people of land instead of proletarianization. This hints at how the moena gets read as proletarian protest rather than criticism of how capital facilitated settler colonialism in Hawai‘i. Iyko Day’s theorization of romantic anti-capitalism is helpful to make sense of how Kala‘i’s message became bemused.¹⁷⁵ Day asserts that romantic anti-capitalism is a logic of settler colonial capitalism, which misapprehends relations of capital by conflating concrete labor with abstract value insofar as the evils of capitalism get personified in racialized bodies and expunge white settlers of capitalist exploitation. While she discusses how this plays out with Asian laborers across North America, whom were and still are racialized through their labor to the settler-state, I believe that romantic anti-capitalism operates further to fetishize the moena and racialize Kānaka Maoli so as to settle land in Hawai‘i. “In the settler colony,” Brenna Bhandar notes, “the colonial animus is driven by the need to control the land base for the continued growth of settler economies and for the security of

¹⁷⁴ Coulthard, *Red Skin, White Masks*, 14.

¹⁷⁵ Day, *Alien Capital*.

settler populations.”¹⁷⁶ As Coulthard says, the colonizer does not fundamentally desire labor from Indigenous people, like that from racialized populations of arrivants comprising alien capital. Rather, colonizers have a murderous and genocidal desire for Indigenous land.

In the textual message of the moena (see figure 6), the Hawaiian Kingdom’s taxation of animal ownership is a harmful economic policy to the lāhui. The translation of the mat’s text was established and popularized by Mary Kawena Pukui. I use her translations, here, to maintain accuracy of how the message has been constructed over time. This allows me to perform some of my own translations, in subsequent analysis, for reinterpreting the mo‘olelo of the mat. In the woven message, Kala‘i discusses how

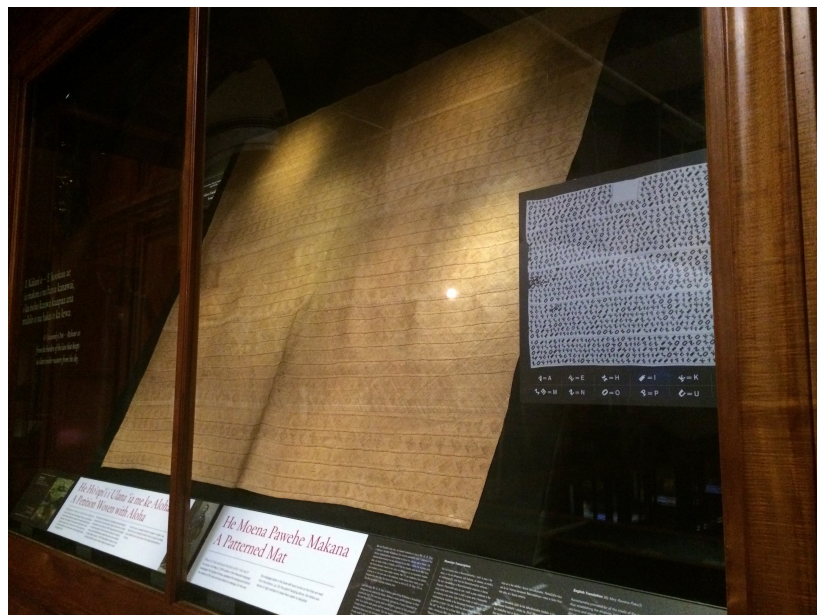


Figure 6. Moena pāwehe makana on display at the Bishop Museum. Photo by author.

governance in the Hawaiian Kingdom was fair and just before the introduction of animal taxes to then suggest such taxes on animals were unfair and unjust. She begins with a

¹⁷⁶ Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Durham, NC: Duke University Press, 2018), 25.

genealogy of governance in the Hawaiian Kingdom. The message starts with the first Mō‘ī of the Hawaiian Kingdom, who unified the Hawaiian Islands and established a centralized system of governance in 1810, Kamehameha:

no ka hanai ana o kamehameha i na alii a pau i ka aina a i ku ai ahupuaa i kalana a i okana a i moku a i mokupuni o ia hoi ka kamehameha oihana i ka wa i lanakila ai o kamehameha ma luna o kona aupuni hoonohoakula o ia i na alii a pau ma luna o ka aina kela ano keia ano o na alii a pau ana i hoonoho ai ma luna o ka aina

(Kamehameha provided for all the chiefs of the land thus establishing the ahupua‘a, kalana, ‘okana, moku land sections and islands. That was what Kamehameha did when he stood at the head of his government. He placed the chiefs over the lands; all kinds of chiefs settled on the land.)¹⁷⁷

After identifying that Kamehameha institutionalized structures of governance that sought to balance relations with the ‘āina in Hawai‘i, she discusses how he governed the lāhui:

like hoi ka malu o na alii a me na makaainana ma lalo o ke kanawai hookahi hele ka luahine a moe i ke ala hele ka elemakule a moe i ke ala ku ka pu ko a hina i lalo ku ka pu maia a hina i lalo ninau ka moi ma ka hooahuahualau i na elele he aha la ke ano o ka luahine a me ka elemakule pu ko pu maia hai maila na elele i ke ano o ka luahine a me ka elemakule o ko kamehameha kumukanawai no ia o ia no kona maluhia.

(The chiefs and the commoners shared the peace under the one law, “Let the aged sleep on the highway unharmed; let the sugarcane grow until it falls over; let the banana grow until it falls over.” The King questioned his messengers to find out what they thought, “What are the old women and the old men like? Are they like the sugarcane and banana stalks?” They told him what they were like. That was Kamehameha’s constitution—his peace.)

¹⁷⁷ I have represented the message here to be legible for readers. The original message was woven with diagonal block letters and no spaces. In my rendering of the mat’s text, I represent the letters in the lower case without capitals but including spaces. The spaces between words assist in parsing the message. Additionally, I left out diacritical markers and other punctuation in the ‘ōlelo Hawai‘i to maintain accuracy with Kala‘i’s original message. The translations, however, do account for the diacritical markers and punctuation. In this way, I follow the interpretive method of Mary Kawena Pukui.

According to Kala‘i, Kamehameha’s governance was peaceful. This peace was possible because of Māmalahoa, or the Law of the Splintered Paddle, which he enacted as a way of balancing relations between ali‘i and maka‘āinana, between rulers and common citizens. Under this governance, maka‘āinana could grow and flourish like the sugarcane and banana. Kala‘i’s remarks suggest that governance was premised upon cultivating the entire ecosystem in Hawai‘i wherein the ‘āina and Kānaka ‘Ōiwi are inextricably connected. She continues:

no ka mea o ka hoailona maluhia no ia o kona aupuni o ka luahine me ka
elemakule o ia no na hua kumukanawai e hao ia ka maluhia nui no ia o ko hawaii
nei pae aina i ka wa i puka mai ai no loko mai o ka puuwai i puka mai ai o ke
aloha i kona lahui kanaka no laila kau aela ia i kona kanawai mamalahoa i mea e
luku hou ole aku ai i kona enemī

(Peace was the symbol of his kingdom; the old women and old men, his constitution. There was no ruthless seizing. It brought peace to the Hawaiian Islands when it was issued. It was issued because of his love for the people. Therefore he laid down his Māmalahoa law that there be no more destruction of his foes.)

Kala‘i argues that Kamehameha’s older system of governance provided not just peace, emanating from his aloha for the lāhui, but also freedom:

no laila lanakila aela ka lahui kanaka ma lalo o ke kanawai hookahi i olelo ia
mamalahoa o ia no ka maluhia nui o kona aupuni a me ka hanohano haina hoala
no ke aupuni kahiko ia kamehameha ekahi

(The people became free under the one law called the Māmalahoa, the giver of the greatest peace in his kingdom, an honor and a revitalizing declaration that have come to us from an old kingdom, that of Kamehameha I.)

Māmalahoa appears as a gift from Kamehameha that Kala‘i believes can revitalize governance in Hawai‘i. She delineates the older government of the Hawaiian Kingdom, in which Kamehameha was Mō‘ī and maintained peace and freedom, from newer

governments that altered relationships between Kānaka Maoli and also the ‘āina. In this light, she issues her request:

e ala ae kakou e kamailio i na kumu nui i emi ai ka lahui hawaii a me ka pii ana o ka lahui mua i ka wa kahiko ia kamehameha no ke noi a na makaainana i ka moi e hoololi i ka auhau ma luna o na holoholona pipi lio hoki miula hipa aole loa e koe kekahi o ia ano

(Let us rise to discuss the great cause for the decrease of the Hawaiian people, a large population in the olden days under Kamehameha, and to ask the King to change the taxes on animals, cattle, horses, asses, mules, and sheep, and let none of these taxes remain.)

This final passage is a critical one to persevere for the concealed meaning Kala‘i left for us to find. Recalling that kaona is not just a practice of constructing meanings, McDougall contends that kaona is a practice also for interpreting meanings. Kala‘i explicates, here, that the lāhui governed by Kamehameha was large in populous, but the lāhui declined in population under newer governments and the animal taxes instituted by them should be overturned. The kaona within this mo‘olelo, which at first glance might look like a kind of linguistic puzzle (see figure 7), reveals much more.

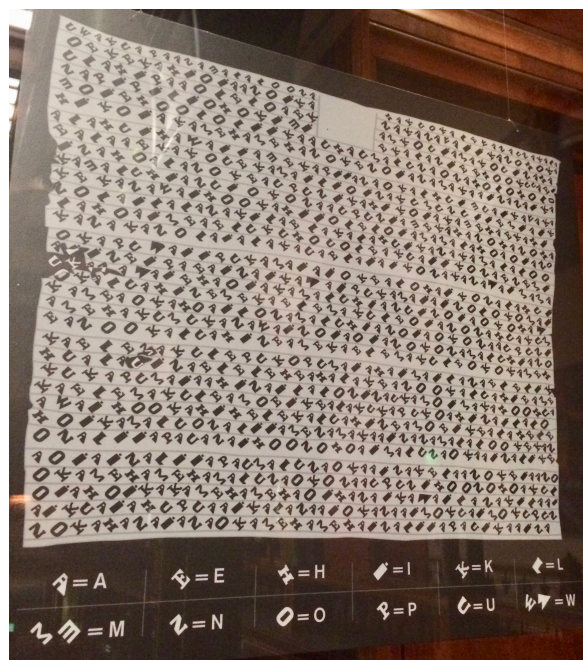


Figure 7. Text of moena pāwehe kūikawā. Photo by author.

The kaona plaited into the moena pāwehe indicates that Kala‘i’s criticism of animal taxes was actually a critique of how the haole introduction of hard currency, literally the foreign imposition of capital, pressured newer governments of the Hawaiian Kingdom to amend taxation policy so that animal taxes were standardized to be paid in money. The message directly points out that ruling governments, proceeding that of Kamehameha, institutionalized animal taxes that were collected only with money, experienced a decrease in population, and ought to alter taxation of animals to revitalize peace and actualize freedom. This suggests the installation of a hard currency standard ameliorated capitalist relations of exploitation. Carlos Andrade laments, “The maka‘āinana had no choice: they were forced to enter the cash economy...currency would now be the only acceptable form of balancing out responsibilities to society and government.”¹⁷⁸ After promulgating a centralized system of taxation in the 1839 constitution’s Ke Kānāwai Ho‘oponopono Waiwai (Law Regulating Taxation, Property, and the Rights of Classes), the House of Nobles created the first laws of monetary taxation in 1840 (see figure 8). In the Legislative Council of 1841, a new law passed

¹⁷⁸ Carlos Andrade, *Hā‘ena: Through the Eyes of the Ancestors* (Honolulu, HI: Latitude 20 Press, 2009), 93-94.

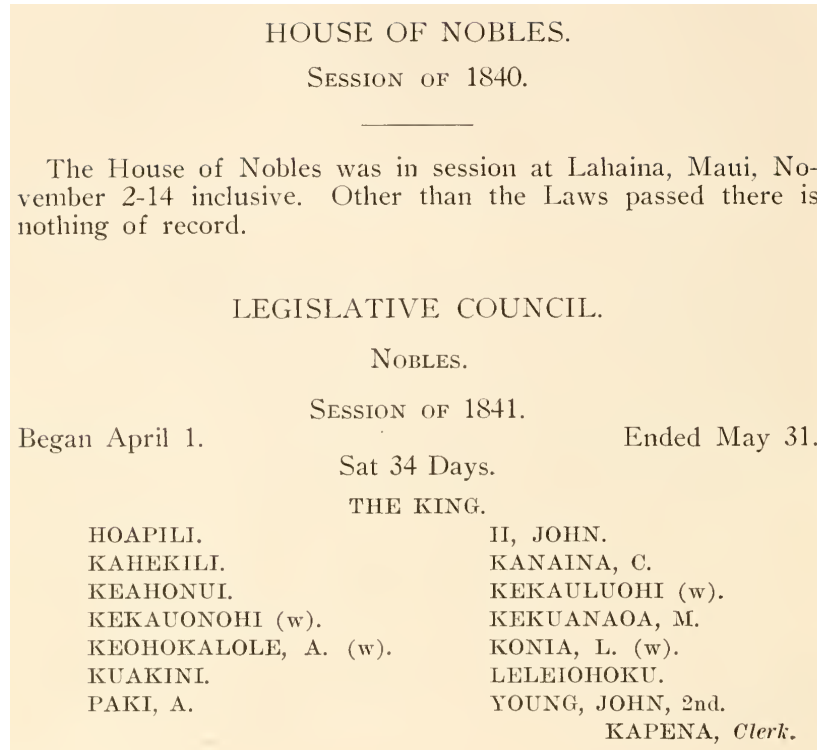


Figure 8. House of Nobles Session and Legislative Council Session. Source: Roster Legislatures of Hawaii, 1841-1918.¹⁷⁹

that standardized money—the Spanish dollar—as payment for all taxes. It stated, “Money is the standard by which all taxes and assessments are to be estimated, and it would be very well if all men would pay their taxes in money.”¹⁸⁰ The first tax on animals was passed in 1843, which specifically taxed dogs and cats. In 1845, a tax on horses, mules, and asses was proposed. The following year, taxation policy was amended and extended to cattle. All of the animal taxes that Kala‘i wished to change were, in fact, mandated to be paid in money. In 1847, total revenue from animal tax collection was more than \$25,000, and it doubled the following year. By 1858, total revenue was over \$130,000.

¹⁷⁹ Robert C. Lydecker, *Roster Legislature of Hawaii, 1841-1918: Constitutions of the Monarchy and Republic, Speeches of Sovereigns and President* (Honolulu, HI: The Hawaiian Gazette, 1918), 16.

¹⁸⁰ *Translation of the Constitution and Laws of the Hawaiian Islands Established in the Reign of Kamehameha III* (Washington, DC: Statute Law Book, 1934), 86.

This tax revenue was helpful in resolving foreign debt that had accumulated with other nations, such as Spain. For haole anthropologist Roger Rose, who authored an ethnological study on the moena that I take up in the next section, animal taxes were welcome.¹⁸¹ These taxes were applauded (see figure 9), initially by missionaries and later by anthropologists, to curb economic inequalities and forge civil society in the Hawaiian Kingdom. Significantly, Rose explains that haole missionaries during the 1840s supported animal taxes and directly influenced policy to increase them.¹⁸²



Figure 9. Palapala hookaa a ka lunaauhau (tax assessor's receipt). Source: Bishop Museum.

Born in 1794, Kala'i lived through Kamehameha's rule that provided peace and freedom, and she lived through the settlement of capital, seeing it hit the lāhui hard through animal taxes. In the last line of her woven message in the moena, Kala'i says, "e kalani e, e hookuu ae ia makou i na hana kanawai, i ka noho kaua kuapaa ana ma lalo o n

¹⁸¹ Roger G. Rose, "Patterns of Protest: A Hawaiian Mat-Weaver's Response to 19th-Century Taxation and Change," *Bishop Museum Occasional Papers* 30 (1990): 88-117.

¹⁸² Rose, "Patterns of Protest," 105.

haku o ka lewa.” Mary Kawena Pukui translated this, “Oh heavenly one, release us from the burden of the law that keeps us slaves under masters from the sky.”¹⁸³ However, there is kaona here that augments the mo‘olelo. Kala‘i intended to give the moena to the former Mō‘ī of the Hawaiian Kingdom, William Lunalilo. But Lunalilo died abruptly, after ruling only from 1873 to 1874, and the demand was delivered to Kalākaua. This passage is directed at Lunalilo, “e kalani e,” as deference for his mo‘okū‘auhau or genealogical line that connects him to the gods, goddesses, and divine deities. She asks Lunalilo to release the lāhui from a burdensome law that keeps Kānaka Maoli bonded as slaves “ma lalo o na haku o ka lewa,” which Pukui translated “under masters from the sky.” In my own translation, “ma lalo o na haku o ka lewa” can also mean under lords of the heaven above, as in the lords of those missionaries advocating animal taxes and lobbying to boost them. If missionaries proliferated colonial capital in Hawai‘i as Silva contends,¹⁸⁴ then they also assisted in its settlement through animal taxes. Kala‘i’s textual message asks to change the taxes on animals to release the lāhui from the burden of that law, which was onerous because payments were required in money, that keeps the lāhui imprisoned within capitalism.

The mo‘olelo of the moena pāwehe kūikawā identifies that an invasive system of capitalism enabled settler colonialism in Hawai‘i. The institutionalization of taxes to be paid in hard currency formally introduced concepts of capital, debt, and accumulation into the Hawaiian Kingdom. This gave way to the privatization of land and launching of ownership rights and property taxes. In 1839 and 1843, two distinct foreign threats to

¹⁸³ See Akana-Gooch, “He Moena Pāwehe Kūikawā,” 172-173.

¹⁸⁴ Silva, *Aloha Betrayed*, 42.

extinguish the Hawaiian Kingdom's national sovereignty resulted in haole advisors on political economy, such as William Richards, suggesting that 'āina be divided into private parcels for property and ownership to secure against unlawful seizures by foreign nations.¹⁸⁵ The 1848 Māhele divided lands and led to the 1850 Kuleana Act that institutionalized private land ownership, which allowed haole subjects to purchase property for the first time in Hawai'i.¹⁸⁶ In doing so, J. Kēhaulani Kauanui writes, "Hawaiians and their descendants largely became a landless people."¹⁸⁷ Capital and its relations of taxation, property, and ownership opened up the dispossession of 'āina and elimination of 'Ōiwi relations to 'āina. Silva writes, "The institution of taxes to be paid in cash caused people to be alienated from their ancestral lands, which undoubtedly contributed to the weakening of their bodies, not to mention their spirits."¹⁸⁸ Kala'i's mo'olelo, woven into the moena, connects tax impositions (as capitalist violence) and haole influences (as colonial violence) to the dispossession and elimination of the lāhui. This is how colonial capitalism began to settle in the early 1840s. Therefore, colonial capitalism settled as a necessary condition of possibility for eroding the national and Indigenous sovereignty of Kānaka Maoli to carve out territorial control and juridical power to eventually institutionalize the US settler-state in Hawai'i. "Capitalism," Frantz Fanon observes, "objectively colludes with the forces of violence that erupt in colonial territories."¹⁸⁹ Settler colonial capitalism is the back-drop for US settler sovereignty in

¹⁸⁵ See Beamer, *No Mākou Ka Mana*, 131.

¹⁸⁶ See Kauanui, *Hawaiian Blood*, 75-80

¹⁸⁷ *Ibid.*, 75.

¹⁸⁸ Silva, *Aloha Betrayed*, 26.

¹⁸⁹ Frantz Fanon, *The Wretched of the Earth*, trans. Richard Philcox (New York: Grove Press, 2004), 27.

Hawai‘i. Contemporary analysis of how the US settler-state manages Kānaka Maoli should interrogate manifestations of settler capital and how to overturn them within the Kanaka ‘Ōiwi politics of ea, as Kala‘i’s gift sought to do and now directs us.

Politics of Protest

A stunning piece of material culture, the moena pāwehe kūikawā is also strikingly political. Woven in pāwehe style from makaloa sedge, the moena is unlike any other. One of only two makaloa mats made in pāwehe style to contain plaited text, Kala‘i’s moena has been distinctively praised for its textual protest. Although her message has been discussed by a handful of Hawaiian- and English-language newspapers in the late 19th and early 20th centuries, it has received attention by ethnologists, anthropologists, and visitors of the Bishop Museum in Honolulu where the mat is currently on display in Hawaiian Hall. However, it is set to be relocated to the archive in Department of Cultural Collections because, while on display, the woven letters have drastically faded from light exposure. Sadly, this material waning is emblematic of how the textual message diminishes through discourse. The moena has been reduced of its (political) complexity and universalized in (cultural) ways that are deeply pernicious. Although the moena is my primary object of analysis, I also look at and critique an ethnological study of it, anthropological knowledge production, and mainstream Marxist discourse on class-struggle. Politicizing Kala‘i’s moena in this way interrupts the sequestering boundary between categories of “culture” and “politics.” It is not simply a piece of material culture, nor is it a normative political protest. I agree with Goodyear-Ka‘ōpua: “When people explicitly assert the ways cultural practice is political, and

political movement is cultural, Hawaiian social movements leap forward.”¹⁹⁰

Approaching the mat as a material culture artifact that is political and has been politicized enables me to trouble what constitutes a proper protest. I begin this section by investigating how the politics of the mat’s protest have been constructed, circulated, and naturalized.

In 1990, Roger Rose, a haole ethnologist in the Department of Anthropology at the Bishop Museum, published the only study in existence about the moena pāwehe. After the moena was displayed at ‘Iolani Palace by Kalākaua in 1874 and later housed at the Hawaiian National Museum until 1891, the Bishop Museum acquired it as a gift from the Government Collection. Since then, the moena has been housed at the museum’s Department of Cultural Collections, where Rose had access to it. In his study, titled “Patterns of Protest: A Hawaiian Mat-Weaver’s Response to 19th Century Taxation and Change,” he argues that Kala‘i’s moena was a rejoinder to ali‘i of the Hawaiian Kingdom, protesting changes in taxation policy. To support his claim, Rose examines the makaloa mat and spotlights its historical significance. Establishing a genealogy of makaloa mat making, mimicking western historiographic periodization and reifies the doctrine of discovery, he starts with Captain James Cook and Cook’s underwhelming observation that these moena are “strong and fine, and some are neatly coloured.”¹⁹¹ Rose focuses much on the aesthetically pleasing utility of them, conveying that they are exquisite sleeping mats. After commenting on the use-value of makaloa mats, he concludes the genealogy by identifying them as moena Ni‘ihau, since they were known to

¹⁹⁰ Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 12.

¹⁹¹ Rose, “Patterns of Protest,” 89.

be woven from makaloa sedge cultivated from 13 fresh and brackish bogs on Ni‘ihau island. He thus suggests these moena were hotly desired as “coveted articles of status and luxury” by haole subjects and ali‘i who collected them as ho‘okupu (offerings and gifts) from maka‘āinana.¹⁹² For Rose, this represented payment for taxes, a pre-colonial system of taxation in Hawai‘i, which added to their rarity and manufactured their scarcity as commodities, so he says.

Shifting the framing of makaloa mats from “cultural” to “political,” as if the two are somehow separable, Rose contends Kala‘i’s moena was an evident protest against taxes. As such, he named it “The Protest Mat.” Reciting the text plaited into the moena, he zeroes in on the translation of its last section:

“Let us rise to study the great cause for the decrease of the Hawaiian people, a large population in the olden days under Kamehameha, and to ask the king to change the taxes on animals, cattle, horses, asses, mules, and sheep and let none of them remain. O Heavenly One—release [us] from the burden of the law that keeps us slaves under masters from the sky.”¹⁹³

Kala‘i’s protest against new taxes, levied on the ownership of animals, signified a class-based struggle, pitting ali‘i who instituted taxes against maka‘āinana whom were taxed further. Rose interpreted the moena pāwehe kūikawā as material culture representing the unfair and unequal socioeconomic treatment of commoners by rulers in the Hawaiian Kingdom. The Protest Mat, in this logic, appeared as a symbol of working-class citizen’s resistance to the economic control and domination brought on by oppressive ruling-class subjects. This was an argument molded by Marx’s critique of capital and steeped in dominant discourses of class-struggle and communist revolution.¹⁹⁴ For instance, before a

¹⁹² Ibid., 90.

¹⁹³ Ibid., 97-98.

¹⁹⁴ Karl Marx, *Capital*, vol. 1 (New York: Penguin, 1990).

centralized system of taxation was instituted in 1839, by Kamehameha I's constitution of Kumu Kānāwai, Rose claims that ho'okupu paid to ali'i by maka'āinana "were often arbitrary and burdensome."¹⁹⁵ The mat's message does not just appear as a protest against animal taxes but, more so, a protest against the governance of the Hawaiian Kingdom. Rose recalls and reiterates the reflections of missionaries to shape these claims. Titus Coan, who wrote an autobiography dully titled *Life in Hawaii*,¹⁹⁶ said, "There is no form of oppression among Hawaiian chiefs and officers which has, on the whole, more pained and disgusted me than this. It is marked with pride, vanity and folly, and a careless, reckless disregard of the interest and happiness of the common people."¹⁹⁷ "To rectify this oppression of the maka'āinana," Rose opines, "a codified system of taxation was gradually implemented."¹⁹⁸ This aided in balancing what Marshall Sahlins and Dorothy B. Berrère, two haole anthropologists that Rose drew upon, called the "unrestrained tyranny of ali'i."¹⁹⁹ In this racialized trope of primitivism, a civilized system of political economy that regulated taxation was required and common sense to shield maka'āinana from the socioeconomic inequalities produced by an uncivilized political economy.

Presenting research on the moena in 1988, Rose refined his study at the 87th conference meeting of the American Anthropological Association, where he recruited the discipline, philosophies, and procedures of anthropology to rationalize a scientific

¹⁹⁵ Rose, "Patterns of Protest," 100.

¹⁹⁶ Titus Coan, *Life in Hawaii: An Autobiographic Sketch of Mission Life and Labors, 1835-1881* (New York: Anson D. F. Randolph & Company, 1882).

¹⁹⁷ Rose, "Patterns of Protest," 100.

¹⁹⁸ *Ibid.*, 102.

¹⁹⁹ Marshall Sahlins and Dorothy B. Berrère, "William Richards on Hawaiian culture and political conditions of the Hawaiian islands in 1841," *Hawaiian Historical Society* 7, (1973): 23.

expertise on the Hawaiian Kingdom that could manipulate the moena as an artifact to criticize Kanaka Maoli agency, governance, and sovereignty. Anthropological knowledge production, brewing in Rose's research presentation and indexed in his ethnological study, played a nefarious role in attempting to erode Kanaka Maoli sovereignty. Seen in this light, there is a prohibitive interest in the moena pāwehe kūikawā. The mat received interest from haole researchers of ethnology and anthropology only insofar as that interest marks Kanaka Maoli governance of the Hawaiian Kingdom to be oppressive, anachronistic, uncivilized, and pre-modern. Interested in Kala'i's moena, the logic works like this: capitalist political economy is a necessary solution to alleviate the problematic savagery of socioeconomic inequalities forged in a pre-modern political economic system of governance. The contagion of Indigenous primitivism pollutes the Hawaiian Kingdom's government and nation-state. A racist, paternalistic, and imperialistic coding, this anthropological interpretation of the mat is minimally determinant for Kānaka Maoli but maximizes utility for anthropology's will to apprehend "others" and produce colonial subjects and "the Native." Elizabeth A. Povinelli asserts this is a process of prohibitive interest whereby Indigenous people are deemed interesting, and worthy of such interest, by white, settler anthropologists only inasmuch as Indigenous people are prohibited from their radical alterity, excluded from knowledge production, and undressed of agency.²⁰⁰ Kala'i's "Protest Mat" for Rose authenticated a pathology of 'Ōiwi primitivity and governmental pre-modernity established earlier in the 19th century writing of Calvinist missionaries, whom were anthropology's first technicians on the Hawaiian frontier.

²⁰⁰ Povinelli, *The Cunning of Recognition*.

Extending Trask's sharp formulation,²⁰¹ anthropologists were very much like missionaries; one group colonized the spirit whereas the other colonized the mind. What I am arguing is Rose's anthropological claim about the moena normalizes socioeconomic inequality as a primitive and pre-modern cultural pattern of Kānaka Maoli in constructions that ali'i governing the Hawaiian Kingdom were greedy, tyrannical, and incompetent. This renders the mat an exceptional protest, functioning to rationalize the haole introduction and Hawaiian adoption of capitalism—a political economic system to *save us from ourselves* and *solve this Hawaiian problem*.

By naming the moena “The Protest Mat,” other possible mo‘olelo and embedded kaona have been evicted. My analysis of the moena is the first to unsettle Rose's study by paying attention to its mo‘olelo and kaona. When I began my archival research in 2012 at the Bishop Museum, I was incessantly told this mat is exceptional for its woven message that protests taxation on animals. It seemed so obvious and unquestioned. For that reason alone the moena received its name from Rose. As I dug deeper, I found this common sense worked to empty its complexity. Universalizing it as “The Protest Mat” reinforces a haole anthropological tradition of regulating, disciplining, and prohibiting Kanaka Maoli agency, governance, and sovereignty. In her research on representations of the moena pāwehe kūikawā in Hawaiian-language newspapers, Akana-Gooch refers to it as a noi (petition). Akana-Gooch says, “He noi kupaianaha i ke aupuni e ho‘ēmi ‘ia ka ‘auhau ma luna o nā holoholona,” which she translates as, “An elaborate petition to the government requesting a reduction in taxation on the people.”²⁰² While Akana-Gooch rejects the static

²⁰¹ Trask, *From a Native Daughter*, 114.

²⁰² Akana-Gooch, “He Moena Pāwehe Kūikawā,” 150-151.

category of protest, claiming the mat as a noi and petition, she still evacuates possibilities that the moena petitioned, protested, and criticized something more than just animal taxes. More recently, the website for Bishop Museum's publication *Ka 'Elele: The Messenger*, displayed student reflections of the mat. One student from Hālau Kū Mana remarks, "The most interesting artifact that I saw at the Museum was the makaloa 'Protest Mat' ...I really liked how she [Kala'i] made the call for help in the form of a mat. It expressed how important the matter of *government taxes* was to her."²⁰³ The discourse dispersed and normalized by haole anthropology penetrates and sticks in these sites, to this very day. It has become common sense knowledge that ultimately distorts Kala'i's mo'olelo and abstracts it in the service of settler colonial capitalism for US settler sovereignty. In response, I want to conclude the chapter by demonstrating, to interrupt the dominant discourse, how Kala'i's mo'olelo demanded that settler colonial capitalism be overturned as an expression of aloha 'āina. The moena is not a proletarian protest against primitives and their pre-modern governance, it is a history and practice of aloha 'āina.

E Ho'ololi

Returning to the moena makaloa in this last section, I explore the kaona hidden within the mat's materiality. When laws mandated that taxes must be paid in money rather than ho'okupu, like moena makaloa, these mats became devalued in at least three ways. First, they were laborious to produce, sometimes taking upwards of five to six years to complete, and held low financial return as a result. Second, they needed to compete with cheaper mats from other countries, such as those imported from China.

²⁰³ "Where Knowledge Traverses Time and Space," *Ka 'Elele: The Messenger*, accessed September 2, 2015, <http://www.bishopmuseum.org>, emphasis added.

Third, they were difficult to gather materials for because makaloa sedge diminished due to agricultural development. In 1864, the island of Ni‘ihau, where makaloa was primarily cultivated in 13 marshy bogs, was purchased by Elizabeth Sinclair, a relative of George S. Gay who gave Kala‘i’s moena to Kalākaua in 1874. The ponds where makaloa grew were drained to generate pastures for raising cows and goats, which were invasive to Hawai‘i yet more fungible and profitable than makaloa. Even though the invasive livestock industry devastated makaloa, Kala‘i opposed taxing these same animals—the issue was capital and its valuation of animals, and devaluation of the ‘āina and Kanaka ‘Ōiwi relations with it, rather than the animals themselves. Descendants of Elizabeth Sinclair, the Robinson family own the island still, and they claim to be conservationists that steward the land.²⁰⁴ In this light, Rose purports that makaloa sedge, the cultural knowledge to produce makaloa into mats, and their master weavers have vanished.

Despite all this, Kala‘i’s moena was made, woven from makaloa and presented to Kalākaua in a resurgent act that refused the imposition and adoption of settler capital, seeking to overturn settler colonial capitalism in Hawai‘i. As a makaloa mat, it critiques taxation policy that replaced *makaloa mats as ho‘okupu* in place for *money as payment for taxes*. An ironic criticism, indeed. Kala‘i refused to pay monetary taxes on animals by crafting and gifting a moena makaloa that had previously been given as ho‘okupu prior to

²⁰⁴ See Carla Herreria, “A Glimpse Inside Hawaii’s ‘Forbidden Island,’” *Huffington Post*, June 21, 2015, http://www.huffpost.com/entry/inside-hawaiiis-forbidden-island_n_559f57ece4b096729155e13a; Michael Harris, “Weekend Window to Niihau, Hawaii’s ‘Forbidden Island,’” *ABC News*, October 1, 2010, <http://abcnews.go.com/GMA/WeekendWindow/hawaiiis-forbidden-island-weekend-window-niihau/story?id=11767576>; Douglas Martin, “Helen Robinson, Island Matriarch, Dies at 91; Preserved Native Culture on Niihau in Hawaii,” *New York Times*, August 7, 2002, <http://www.nytimes.com/2002/08/07/us/helen-robinson-island-matriarch-dies-91-preserved-native-culture-niihau-hawaii.html>.

the institutionalization of taxes to be paid in hard currency. Such rejection echoes events in 1863 wherein Kānaka Maoli of Ni‘ihau refused to pay taxes in money to Kamehameha V, Lot Kapuāiwa. When this occurred, Kapuāiwa then asked for makaloa mats instead of money. But Kānaka Maoli of Ni‘ihau refused again and paid no tax. The mo‘olelo of refusal by Kala‘i, her moena, and the Kānaka ‘Ōiwi of Ni‘ihau builds on what Simpson terms the Indigenous politics of refusal.²⁰⁵ Refusal offers Indigenous people an alternative to being dispossessed, eliminated, and replaced. Refusal is an alternative to liberal democratic “goods” like capital and monetary taxation. “To accept these conditions,” according to Simpson, “is an impossible project for some Indigenous people, not because it is impossible to achieve, but because it is politically untenable and thus normatively should be refused.”²⁰⁶ Kala‘i could not accept the conditions brought on by settler colonial capitalism, which meted out massive depopulation of Kānaka Maoli as she indicated in her message. It was an impossible circumstance. Settler capitalism empowered the haole dispossession of Hawai‘i, and therein required the elimination of Kānaka Maoli and our enduring relations with the ‘āina of Hawai‘i. It attempted to disappear makaloa and makaloa mat making in the name of profit, ownership, and white patriarchal possessiveness. Nevertheless, Kala‘i refused to allow this. She created and gifted the moena to change and overturn an encroaching system of power and destruction. “Some still know this,” as Simpson writes, “and will defend what they have left.”²⁰⁷

“[E] hoololi,” as Kala‘i wove into the moena, is not just a declarative charge to *change* but, as “e” precedes “hoololi,” an imperative command to *overturn* relations of

²⁰⁵ Simpson, *Mohawk Interruptus*.

²⁰⁶ *Ibid.*, 22.

²⁰⁷ *Ibid.*, 12.

violence brought on by settler colonial capital. Kala‘i’s demand ho‘ololi functions centrally through aloha ‘āina (see figure 10), a unique geographic way of being that I ground in my analysis of moena and elaborate in the proceeding chapters. “Place is not reducible to attachments to land,” Isabel Altamirano-Jiménez argues, “place is a space of ontological relationships among people and between people and their environments.”²⁰⁸

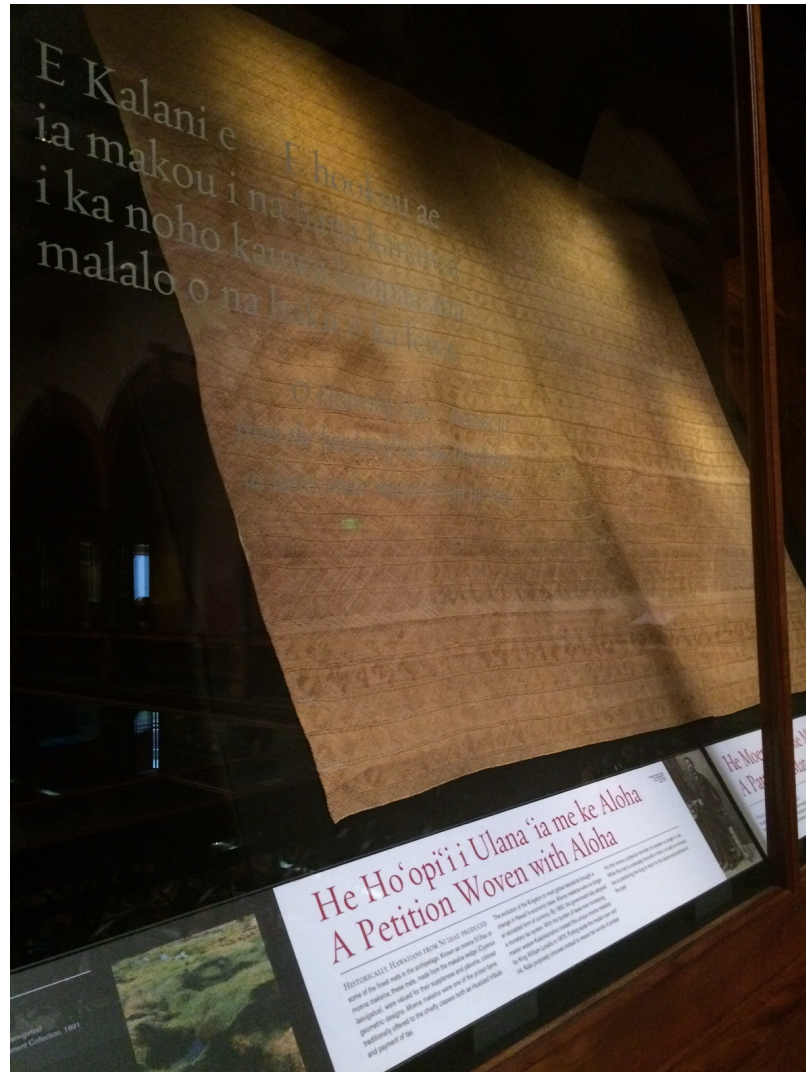


Figure 10. A petition woven with aloha. Photo by author.

²⁰⁸ Altamirano-Jiménez, *Indigenous Encounters with Neoliberalism*, 43.

Incomprehensible to Rose’s anthropocentrism that could only code the moena as human protest against class struggle, Kala’i’s mo’olelo of anti-colonialism and anti-capitalism was ingeniously articulated through the makaloa fostered on Ni’ihau. She expressed a Kanaka Maoli version of grounded normativity. Coulthard conceives of grounded normativity as a “place-based foundation of Indigenous decolonial thought and practice...the modalities of Indigenous land-connected practices and longstanding experiential knowledge that inform and structure our ethical engagements with the world and our relationships with human and nonhuman others.”²⁰⁹ The moena is made from makaloa rooted in the ‘āina, nurtured and gathered at the inimitable union of land and water in fresh and brackish bogs. That ‘āina is Papahānaumoku, our Earth Mother. She and Wākea, our Sky Father, are the progenitors of Kānaka ‘Ōiwi. The moena pāwehe kūikawā materialized from a genuine love, care, and aloha for the ‘āina as a *more-than-human relation* in the mo’okū’auhau of our genealogical origin. It demonstrates mo’okū’auhau consciousness. Silva contends that mo’okū’auhau consciousness is an ‘Ōiwi sensibility cultivated from the teachings of our kūpuna to guide present and future relations and practices within our community for autonomy, independence, and sovereignty—for ea.²¹⁰ “We see the ways that our intellectual kūpuna of the nineteenth and early twentieth centuries used mo’okū’auhau consciousness to perpetuate our language, mo’olelo, mele, and so on. They positioned themselves within the mo’okū’auhau of our lāhui,” she writes, “that is, they greatly valued the narrative and poetic traditions of *their* kūpuna and used their talents to record them for their

²⁰⁹ Coulthard, *Red Skin, White Masks*, 13.

²¹⁰ Noenoe K. Silva, *The Power of the Steel-Tipped Pen: Reconstructing Native Hawaiian Intellectual History* (Durham, NC: Duke University Press, 2017).

descendants. In the twenty-first century, we are who they foresaw.”²¹¹ Implanted within Kala‘i’s mat is an ethical engagement with relationalities to belonging in place and time. This mo‘okū‘auhau is centered on growing the lāhui by protecting the ‘āina. The moena articulates aloha ‘āina in an undeniably concrete way: take care *of* ‘āina *through* ‘āina. It is a Kanaka ‘Ōiwi geontology, a way of being in the ‘āina of Hawai‘i, that exceeds and is critical of settler colonial capitalism. Refusing the violence of settler capital, the moena loudly exclaimed that makaloa mats are not extinct, the knowledge to produce them persists, and master wāhine weavers like Kala‘i are alive.

To close this chapter, I offer one final mo‘olelo (see figure 11). According to a story in *Ka Nupepa Kuokoa*, published on May 2, 1874, after receiving the moena,

Ua lohe makou, ua kauohaia ka wahine ulana moena pawehe o Niihau, oia o Kalai, e ka moi, e ulana i mau moena pawehe i elua mau moena me ke kii hoailona o Amerika a pela no hoi ko Beritania.

Figure 11. Ua lohe makou (we heard). Source: *Ka Nupepa Kuokoa*.²¹²

Kalākaua asked Kala‘i to make two additional makaloa sedge mats.²¹³ Apparently, he was quite a fan. The requested mats would be sent to the US Centennial Exposition occurring in Philadelphia, Pennsylvania in 1876. Worse though, the request was for “elua mau moena me ke kii hoailona o Amelika a pela no hoi ko Pelekania” or, in my translation, “two mats with the symbol of America and the other with that of Britain.”

²¹¹ Ibid., 7, original emphasis.

²¹² “HE MOENA PĀWEHE MAKANA,” *Ka Nupepa Kuokoa*.

²¹³ Ibid.

Kala‘i’s response was silence. She refused the commission. The moena pāwehe requested for the celebration of two different empires were never made. Encrusted in her sustained refusals of capital, settler colonialism, and empire, there is kaona about the history and practice of aloha ‘āina. This hidden meaning is not locked away in our past but living, breathing, and rising in our present for alternative futures beyond settler colonial capitalism. Kala‘i’s mo‘olelo shows how aloha ‘āina is anti-colonial and anti-capitalist. Moreover, it worked on and against the state sovereignty of the Hawaiian Kingdom to perform a Kanaka ‘Ōiwi politics of ea, which is signified in her demand to the Hawaiian Kingdom’s government, “e hoololi i ka auhau,” meaning *change the tax and overturn monetary taxes*. Many years ago, Kalākaua merrily envisioned the political slogan ho‘oulu lāhui for a Kanaka Maoli cultural and national renaissance to take up, much like Kala‘i’s moena pāwehe makana presented a gift with kuleana, responsibility and obligation, to Kalākaua three days before he made the declaration. This kuleana is rooted in and for aloha of ‘āina. It is a kuleana to see, feel, and identify settler colonial capitalism to overturn it in Hawai‘i as well as within Hawaiian sovereignty. Hidden beneath the intricate plaited letters and woven makaloa sedge, the kuleana given to Kalākaua by Kala‘i was a tremendous gift that offers a new framework to examine contemporary struggles over settler colonial capitalism and sovereignty in Hawai‘i. The proceeding chapters carefully attempt to unpack and share other gifts of sovereignty.

Chapter 3

Federal Recognition and the Geopolitics of Biopower

On May 5, 2014, Office of Hawaiian Affairs (OHA) Chief Executive Officer Kamanaʻopono Crabbe sent a letter to US Secretary of State John Kerry. In the letter, Crabbe inquired about the legal status of the Hawaiian Kingdom. He submitted the letter in a spirit of responsibility to fulfill OHA's directive to serve Kānaka Maoli. Established by the State of Hawai'i's Constitutional Convention in 1978, OHA manages and administers income generated from the sale and lease of "ceded lands." These are 1.8 million acres of land in Hawai'i that were originally allotted, under the 1848 Māhele, as government lands of the Hawaiian Kingdom and crown lands for its monarchs.²¹⁴ However, when an oligarchy of white Euro-American men, assisted by US military forces, overthrew the Hawaiian Kingdom's government in 1893, this land was usurped. The oligarchy formed a Provisional Government and seized the Hawaiian Kingdom's government and crown lands, which were joined together and transmitted later to the Republic of Hawai'i in 1894. When Congress passed the Newlands Resolution and President William L. McKinley authorized it to annex Hawai'i as a US territory, the government and crown lands were ceded in 1898 to the US federal government. Through the Admissions Act of 1959, the federal government transferred ownership of 1.4 million acres of this land to the newly created State of Hawai'i insofar as it be put into a public trust. OHA became institutionalized as an agency for the explicit purpose of managing

²¹⁴ Jon M. Van Dyke, *Who Owns the Crown Lands of Hawai'i?* (Honolulu, HI: University of Hawai'i Press, 2007).

and administering revenue from this public trust. For Crabbe, his letter was a request to clarify OHA's fiduciary obligations. But it requested clarification in the wake of new Hawaiian legal research, which claims the overthrow of the Hawaiian Kingdom's government was illegal and that the Hawaiian state continues to exist as a sovereign nation under US military occupation.²¹⁵ Addressed to John Kerry as Secretary of the State Department responsible for foreign affairs, Crabbe's letter asked, "Does the Hawaiian Kingdom, as a sovereign independent State, continue to exist as a subject of international law?" Assuming the Hawaiian Kingdom persists, and shifting the burden onto the federal government to prove it does not, Crabbe posited three queries. The first was whether or not the US government is bound by sole-executive agreements and treaties with the Hawaiian Kingdom. The second was whether or not US domestic legislation like the Admissions Act, inventing the "State of Hawai'i" and transferring ownership of "ceded lands" to it, is lawful in Hawai'i. The third was whether or not the State of Hawai'i, OHA, and their policies to pursue US federal recognition of a new Native Hawaiian government have incurred criminal liability under international laws of occupation. Needless to say, Kerry did not respond. But someone else did.

One month later, the US Department of the Interior (DOI) issued an Advanced Notice for Proposed Rulemaking (ANPRM) to consider federal recognition for Kānaka Maoli. Rather than the Department of State, the DOI reacted to Crabbe's letter: "In response to requests from the Native Hawaiian community, Hawaii's congressional delegation and state leaders, the U.S. Department of the Interior announced today a first

²¹⁵ Sai, "American Occupation of the Hawaiian State"; Chang, "Darkness Over Hawaii."

step to consider reestablishing a government-to-government relationship between the United States and the Native Hawaiian community.”²¹⁶ Although the DOI notes multiple sources compelled the administrative rulemaking process, Crabbe’s inquiry on the legal status of the Hawaiian Kingdom set a palpable backdrop for this executive procedure. Sally Jewell, Secretary of the DOI, said, “The Department is responding to requests from not only the Native Hawaiian community but also state and local leaders and interested parties who recognize that we need to begin a conversation of diverse voices to help determine the best path forward for honoring the trust relationship that Congress has created specifically to benefit Native Hawaiians.”²¹⁷ From Crabbe’s request to Jewell’s statement, there is quite a contrast. Let me explain. On one hand, Crabbe sought clarity on how the US government, through the State of Hawai‘i and OHA, maintains legal standing to federally recognize a new Native Hawaiian government if the Hawaiian Kingdom’s government continues to exist. On the other hand, Jewell manipulated requests for clarification on the legal status of the Hawaiian Kingdom and Kānaka Maoli to rationalize federal recognition as a way to strengthen the relationship that Congress asserts over Native Hawaiians. There was a tactical confidence met by discernable anxiety. Crabbe contemplated the geopolitical position of Kānaka Maoli according to international laws of occupation whereas Jewell ruminated on the biopolitical position of Kānaka Maoli in accordance with Congressional statutes under federal law. What is

²¹⁶ Office of the Secretary, Department of the Interior, “*Interior Considers Procedures to Reestablish a Government-to-Government Relationship with the Native Hawaiian Community*,” press release, June 18, 2014, <https://www.doi.gov/news/pressreleases/interior-considers-procedures-to-reestablish-a-government-to-government-relationship-with-the-native-hawaiian-community>.

²¹⁷ Ibid.

abundantly present in this opening mo‘olelo is the legal status of Kānaka Maoli is extraordinarily precarious. It is, as Kauanui has shown, a precarious position.²¹⁸ How does US federal recognition of Kānaka Maoli rhetorically acknowledge, discursively produce, and legally resolve the precarious position of the lāhui Hawai‘i? How have Kānaka Maoli exposed the promises of federal recognition as empty and, in turn, antagonized US settler sovereignty in Hawai‘i?

In this chapter, I investigate the ways in which a federal procedure considered reestablishing a government-to-government relationship between the US and Native Hawaiian community to create an administrative rule for recognizing a reorganized Native Hawaiian government. I look at US federal law and dissect an executive rulemaking procedure and administrative rule, while probing the Congressional statutes and case law deployed within them. Taking on each branch of US democratic governance—the executive, legislative, and judicial—I interrogate how federal recognition is co-constitutive of settler sovereignty. Federal recognition of Kānaka Maoli has been constituted through the so-called sovereignty of the US settler-state and, simultaneously, constitutes American jurisdictional and territorial power approximately 4,000 miles away in Hawai‘i. Similar to how Chapter 1 illustrated the introduction of settler capital in the early 1840s worked to dismantle national and Indigenous sovereignty in Hawai‘i, this chapter details how federal recognition functions currently to disassemble Hawaiian sovereignties so as to complete replacement of the lāhui Hawai‘i with the US settler-state. In the first section of this chapter, I chart theories on recognition, law and

²¹⁸ J. Kēhaulani Kauanui, “Precarious Positions: Native Hawaiians and US Federal Recognition,” *The Contemporary Pacific* 17, no. 1 (2005): 1-27.

power, and settler colonialism to frame my approach to US federal recognition of Kānaka Maoli. This framework develops an intersectional orientation to settler-state recognition for the field of Critical Indigenous Studies. In the second section, I analyze the DOI's ANPRM, suggesting it established a legal history for advancing reconciliation by reestablishing a government-to-government relationship with the Native Hawaiian community. In the third section, tracking mo'olelo of opposition from testimony during public meetings mandated by the ANPRM, I contend that Kānaka 'Ōiwi refused the offer and gifts of federal recognition. Opposition was distinctively articulated as 'a'ole (no), which I contend is rooted and contributes to a genealogy of Kanaka Maoli refusal. In the fourth section, I elucidate how the DOI, issuing a Notice for Proposed Rulemaking (NPRM), recommended an administrative rule for federally recognizing a reorganized Native Hawaiian government, despite overwhelming disagreement. The ANPRM and NPRM were notices of settlement, operating as announcements that the considered and then proposed administrative rule would settle the biopolitical status of Kānaka Maoli for the geopolitical settlement of Hawai'i, once and for all. In the fifth section, I examine the Final Rule that the DOI published and assert it consolidates the biopolitics and geopolitics of settler colonialism. However, the rules of this recognition lay bare the precarity and disorder of US settler sovereignty over Kānaka Maoli and Hawai'i. To end, I return to mo'olelo of opposition from public meeting testimony, which identified and challenged the biopolitical and geopolitical calculations of federal recognition, to further theorize how Kānaka Maoli seek to overturn settler colonial capitalism and the US settler-state in Hawai'i.

In Chapter 2, I contend that the DOI's ANPRM and NPRM were notices of settlement that announced how a new policy for federal recognition proposed through an administrative rule change would test and settle the biopolitical status of Kānaka Maoli for settling the geopolitical status of Hawai'i. Although the DOI's Final Rule created rules of recognition, which anxiously seek to incorporate Native Hawaiians as Indians without land, Kānaka Maoli rejected and refused this new paradigm for federal recognition through articulations of 'a'ole that exposed the incoherence and precarity of US settler sovereignty upon the 'āina of Hawai'i.

Recognition, Law and Power, and Settler Colonialism

In this section, I situate the framework for this chapter's analysis by tracing theories of recognition, law and power, and settler colonialism. This robust network of interdisciplinary thought orients my way into the chapter's object of analysis: federal recognition. Although the scholarship on recognition, law and power, and settler colonialism that I discuss is interrelated, I am interested in exploring the arrangement of research, locating contributions and limitations, to develop a more intersectional approach to settler-state recognition for Critical Indigenous Studies. I utilize this framework to analyze the DOI's ANPRM, NPRM, and Final Rule to critique US federal recognition of Kānaka Maoli.

In *Red Skin, White Masks*, Coulthard argues that recognition operates as a political philosophy and material policy. The politics of recognition "refer to the now expansive range of recognition-based models of liberal pluralism that seek to 'reconcile' Indigenous assertions of nationhood with settler-state sovereignty via accommodation of

Indigenous identity claims in some form of renewed legal and political relationship.”²¹⁹ Coulthard’s empirical investigation focuses on First Nations’ struggle with recognition-based models of liberal pluralism enacted by the Canadian settler-state. His theorization of the politics of recognition is capacious and can be extended to scrutinize the policies of other settler-states. At the heart of global calls for settler-state recognition is a delegation of land, capital, and political power to Indigenous people in the form of land settlements, economic developments, and self-governance programs.²²⁰ But liberal policies that seek reconciliation with Indigenous communities through settler-state mechanisms of recognition remain colonial. It is a settler colonial relationship, Coulthard says, that operationalizes “a particular form of *domination*; that is, it is a relationship where power—in this case, interrelated discursive and nondiscursive facets of economic, gendered, racial, and state power—has been structured into a relatively secure or sedimented set of hierarchical social relations that continue to facilitate the *dispossession* of Indigenous peoples of their lands and self-determining authority.”²²¹ The settler colonial relationship of domination hinges upon access to land and resources for capitalist developments and the formation of settler-states.²²² All this, however, can be obscured by the seemingly accommodating and conciliatory character of recognition. Recognition is acutely interesting to Coulthard for how it reconfigures power in liberal politics and progressive policy to conceal ongoing settler-state practices for dispossessing Indigenous communities.

²¹⁹ Coulthard, *Red Skin, White Masks*, 3.

²²⁰ *Ibid.*

²²¹ *Ibid.*, 6-7, original emphasis.

²²² *Ibid.*, 7.

To understand the structure of dispossession in recognition, Coulthard turns to Marx's theory of primitive accumulation that elaborates the union of colonial rule and capital accumulation. Historicizing the birth of capitalism in the 16th century, Marx described that violent state practices, such as "conquest, enslavement, robbery, murder,"²²³ separated communities from the means of their production. "In *Capital*," Coulthard writes, "these formative acts of violent *dispossession* set the stage for capitalist modes of production and accumulation by tearing Indigenous societies, peasants, and other small-scale, self-sufficient agricultural producers from the source of their livelihood—the *land*."²²⁴ Two preconditions for capital were inaugurated: dispossession and proletarianization. First, collectively maintained territories and resources were dispossessed, privatized, and enclosed through state force. Second, people dispossessed of communally cultivated lands were compelled to enter markets where their labor could be sold. Primitive accumulation, therefore, is this historical process whereby non-capitalist forms of life are violently transformed into capitalist forms of life. Although colonial dispossession is identified as one of two pillars animating capitalism, the primary concern for Marx, and Marxism as a resulting philosophy, was the alienation of the (white, male) worker. In response, Coulthard argues for a contextual shift from the capital relation to the colonial relation, which centers the colonized subject's positionality and their analysis of colonial dispossession.²²⁵ For him, the dispossession of territories and resources, rather than proletarianization, is the fundamental background structuring relations between the state and Indigenous communities. Colonial dispossession provided

²²³ Marx, *Capital*, 874.

²²⁴ Coulthard, *Red Skin, White Masks*, 7, original emphasis.

²²⁵ *Ibid.*, 11.

the necessary conditions of possibility for capital to flourish and be exported, which Coulthard identifies as the system of settler colonial capitalism. Making this contextual shift provides “a better angle from which to both anticipate and interrogate practices of settler-state dispossession justified under otherwise egalitarian principles and espoused with so-called ‘progressive’ political agendas.”²²⁶

But “what are we to make of contexts where state violence,” Coulthard asks, “no longer constitutes the regulative norm governing the process of colonial dispossession, as appears to be the case in ostensibly tolerant, multinational, liberal settler polities?”²²⁷ To grasp how the spectacular violence of colonial dispossession transformed, Coulthard explores the structural and subjective dimensions of recognition theorized by Frantz Fanon. Fanon suggested recognition is a technique of power whereby colonial relations of domination are constructed and upheld, in which conditions of accommodation (for the colonized) in exchanges of recognition are typically determined by and in the interest of the hegemonic party (the colonizer).²²⁸ Instead of fashioning mutual reciprocity, the structure of recognition serves and obfuscates continuous settler-state practices of colonial dispossession. Revising G. W. F. Hegel’s master/slave dialectic,²²⁹ Fanon posited that the master in colonies does not desire recognition but work from slaves.²³⁰ In this sense, he emphasized the intersecting relations of capital *and* colonialism, dissimilar from Marx. Building on Fanon’s revision, Coulthard asserts, “The ‘master’—that is, the

²²⁶ Ibid., 12.

²²⁷ Ibid., 15.

²²⁸ Frantz Fanon, *Black Skin, White Masks*, trans. Richard Philcox (New York, NY: Grove Press, 2008).

²²⁹ G. W. F. Hegel, *Phenomenology of Spirit* (Oxford: Oxford University Press, 1977).

²³⁰ Fanon, *Black Skin, White Masks*, 220.

colonial state and state society—does not require recognition from the previously self-determining communities upon which its territorial, economic, and social infrastructure is constituted. What it needs is land, labor, and resources.”²³¹ But sustaining colonization requires that Indigenous people internalize the arrangements of domination and terms of dispossession within recognition. Through the growth of psycho-affective attachments to this scheme of recognition,²³² Indigenous people, coerced by reconciliation and accommodation, are transformed into subjects of settler-state rule that become ideologically invested in cultivating the economic and political status quo of the colonial relation. “In situations where colonial rule does not depend solely on the exercise of violence,” Coulthard sums, “its reproduction instead rests on the ability to entice Indigenous people to *identify*, either implicitly or explicitly, with the profoundly *asymmetrical* and *nonreciprocal* forms of recognition either imposed on or granted to them by the settler state and society.”²³³ These are recognition’s structural and subjective problems, which are helpful frameworks for my analysis. Although Chapter 2 explicates the structural problems of federal recognition, Chapter 3 builds on this analysis and investigates federal recognition’s subjective problems.

While Coulthard provides a vital lens to view the structures of settler-state recognition, I draw upon Barker’s theorizing on law and power to account for the micromechanics of federal recognition. There are a few reasons for this. One reason is concerning method. In *Native Acts*, Barker investigates the multiple, contradictory ways in which the legal statuses and rights of Indigenous communities are articulated through

²³¹ Coulthard, *Red Skin, White Masks*, 40.

²³² Fanon, *Black Skin, White Masks*, 148.

²³³ Coulthard, *Red Skin, White Masks*, 25, original emphasis.

US national narrations that produce notions of authenticity based on recognition, membership, disenrollment, and tradition. She suggests that Indigenous people can rearticulate colonial relations of inequality—racism, sexism, homophobia, American nationalism, and religious conservatism—within and across Indigenous communities. To do so, she looks at US federal law. In this chapter, I turn to US federal law as a domain for analysis, targeting the DOI’s executive rulemaking procedure and administrative rule. “Federal law,” Barker argues, “demands a particular kind of Native culture and identity in order for Natives to be recognized as legitimately, legally Native.”²³⁴ Following her method, I perform a discursive method of legal analysis to probe the micromechanics of power embedded within legal demands of and for settler-state recognition.²³⁵

This leads to another reason, which is methodological. Whereas Coulthard centers structuralist conceptions of power, Barker relies on poststructuralism to analyze operations of power “from below.”²³⁶ Despite not shying from poststructuralist thought, Coulthard’s analysis of recognition develops mainly from the structural critiques of Marx and Fanon, where power is seen as a something possessed—either by the bourgeoisie or worker, the colonial master or subaltern slave, the settler-state or Native. Barker’s approach to recognition, influenced by the poststructuralist theories of Michel Foucault and Stuart Hall, considers how power is exercised and capillary. In his criticism of Marxist economism, Foucault suggested, “Power passes through individuals. It is not

²³⁴ Barker, *Native Acts*, 11.

²³⁵ See Michel Foucault, *Society Must Be Defended*, trans. David Macey (New York, NY: Picador, 2003), 32.

²³⁶ *Ibid.*

applied to them.”²³⁷ This assists in framing how settler-state recognition’s colonial domination and dispossession are not simply applied to Indigenous people but passes through them. Barker thus explores law as a discourse that is mediated by and manufactures power. Rather than trusting law to be omnipotent, apolitical, absolute, or even coherent, Barker says, “The law is a discourse that operates in historically contingent and meaningful ways, articulated to other discourses ideologically, strategically, and irrationally. It informs the constitution and character of the relations of power and knowledge between Native peoples and the United States, and within Native communities.”²³⁸ For instance, the executive rulemaking and administrative rule that I explore in this chapter are articulated through other laws to craft new procedures and regulations for federally recognizing Kānaka Maoli. “By perceiving the law as a discourse,” Barker writes, “the law is understood within the context of how it is articulated to other discourses and to what (un)intended ends.”²³⁹ Looking at the objectives and meanings of legal discourses opens up the capacity for interpreting how they are rearticulated and antagonized by those subjected to them. Speaking on religion as a discourse akin to law, Hall asserted, “Its meaning—political and ideological—comes precisely from its position within a formation. It comes with what else it is articulated to. Since those articulations are not inevitable, necessary, they can potentially be transformed.”²⁴⁰ Fusing the work of Barker and Coulthard, I am interested in the

²³⁷ Ibid., 29.

²³⁸ Barker, *Native Acts*, 7-8.

²³⁹ Ibid., 8.

²⁴⁰ Lawrence Grossberg, “On Postmodernism and Articulation: An Interview with Stuart Hall,” in *Stuart Hall: Critical Dialogues in Cultural Studies*, edited by David Morley and Kuan-Hsing Chen (New York: Routledge, 1996), 131-150.

discourses *and* structures of US federal recognition for how they can be transformed *and* rejected by Kānaka Maoli. “The question that lingers is not *why* Native peoples would use the law,” Barker laments, “but *how*, in those uses, they seek to rearticulate their relations to one another, the United States, and international community.”²⁴¹ The chapter at hand, and dissertation on whole, takes this question of how, not why, Indigenous people engage law with utmost seriousness.

The final reason is about ethics. I turn to Barker to hold my analysis accountable to Indigenous feminism in two ways. First, Indigenous feminists guide my interrogation of recognition. While the backbone of Coulthard’s approach to recognition calls upon two theorists criticized for forwarding sexist arguments,²⁴² his analysis glosses important studies of recognition done by numerous Indigenous feminist scholars. Although there is reference to Barker’s research on legal activism by Indigenous women in Canada,²⁴³ it is a brief anecdote that avoids sustained commitment.²⁴⁴ Coulthard does, however, utilize Leanne Betasamosake Simpson’s arguments to theorize Indigenous resurgence as a process for rejecting the colonial politics of recognition.²⁴⁵ What I am pointing out is Coulthard takes for granted the myriad Indigenous feminist scholars that critique recognition like Kauanui, Simpson, and Barker, to name just a few. In this chapter, I employ Barker’s orientation toward recognition as a corrective to the approach

²⁴¹ Barker, *Native Acts*, 11, original emphasis.

²⁴² Anne McClintock, *Imperial Leather: Race, Gender and Sexuality in the Colonial Conquest* (New York: Routledge, 1995).

²⁴³ Joanne Barker, “Gender, Sovereignty, and the Discourse of Rights in Native Women’s Activism,” *Meridians: Feminism, Race, Transnationalism* 7, no. 1 (2006): 127-161.

²⁴⁴ Coulthard, *Red Skin, White Masks*, 85-86.

²⁴⁵ Leanne Simpson, *Dancing on Our Turtle’s Back: Stories of Nishnaabeg Re-Creation, Resurgence and a New Emergence* (Winnipeg: Arbeiter Ring Press, 2011).

naturalized by Coulthard. Second, Indigenous feminism strengthens my analysis of recognition. Barker contends that “Native peoples must choose strategically and ethically how they will negotiate these demands as they articulate their cultures and identities as Natives in claims of their legal status and rights.”²⁴⁶ Political engagement, whether with the settler-state and its law or within and across Indigenous communities, is also an ethical engagement. Barker grounds her political analysis of recognition in an ethics of Indigenous feminism. For example, she discusses how “hard” political issues of Indigenous sovereignty tend to get privileged over “soft” political matters, like gender and sexual inequality, as if claims against sexism and homophobia are inconsequential to Indigenous sovereignty.²⁴⁷ Countering such colonial narrations, she argues for a renewed ethics of relationality premised on Indigenous feminism, expanding Coulthard’s ideas about grounded normativity discussed in Chapter 1. Barker calls it the polity of the Indigenous: “the unique governance, territory, and culture of an Indigenous people in a system of (non)human relationships and responsibilities to one another.”²⁴⁸ The Indigenous feminism propagated by Barker offers an ethical, not just political, approach to US federal recognition of Kānaka Maoli. It is an ethic, which I deeply trust for this project, that attempts to genuinely account for intersecting relations of colonial power as they are structurally ordered and discursively produced.

Because federal recognition of Kānaka ‘Ōiwi proliferates US American law and power in Hawai‘i, I end this section by specifically considering the biopower and

²⁴⁶ Barker, *Native Acts*, 11.

²⁴⁷ *Ibid.*, 12-15.

²⁴⁸ Joanne Barker, “Indigenous Feminisms,” in *The Oxford Handbook of Indigenous People’s Politics*, edited by José Antonio Lucero, Dale Turner, and Donna Lee VanCott (New York: Oxford University Press, 2015), 2.

geopower of settler colonialism. Although Coulthard and Barker gesture to the ways in which settler colonialism fuels state power, neither elaborates on how the biopolitics and geopolitics of settler colonialism are instrumental to the settler-state for recognizing Indigenous people and nations. The framework I sketch aspires to fill this theoretical gap in Critical Indigenous Studies. In the final part of this section, I track theorizations of settler colonialism by Morgensen to elucidate its biopolitical and geopolitical animus. Morgensen's arguments, adding to Queer Indigenous Studies, provide an intersectional orientation for my analysis of federal recognition by accounting for, on one hand, how the settler-state regulates and disciplines Indigenous people via techniques of race, gender, and sexuality and, on the other, how the biopolitics of settler colonialism pivot upon geopower.

“For more than five hundred years,” Morgensen contends, “Western law functioned as biopower in relation to ongoing practices of European settler colonialism.”²⁴⁹ He explains the globalization of biopower—a modern incarnation of western governmental power—is premised on and perpetuates settler colonialism, a geopolitical project with the irreducible element of accessing territory.²⁵⁰ Global transmissions of this state power have reproduced the dispossession and elimination of Indigenous people, sustaining settler colonization as an ongoing structure rather than an aloof historical event. In *Spaces Between Us*, Morgensen demonstrates that settler colonial biopower is institutionalized by settler-states in ways that weaponize race,

²⁴⁹ Scott Lauria Morgensen, “The Biopolitics of Settler Colonialism: Right Here, Right Now,” *Settler Colonial Studies* 1, no. 1 (2011): 52.

²⁵⁰ See Patrick Wolfe, “Settler Colonialism and the Elimination of the Native,” *Journal of Genocide Research* 8, no. 4 (2006): 388.

gender, and sexuality toward dispossessive and eliminatory ends. The genealogy of settler colonial biopolitics conveyed by Morgensen completes my framework to examine the recognition—an American brand of politics, policy, law, and power—thrust onto Kānaka Maoli in Hawai‘i.

Morgensen begins by exhuming Foucault’s theory of biopower. In *Society Must Be Defended*, Foucault explored how modern racism is inscribed in state apparatuses vis-à-vis biopower. In the 17th and 18th centuries, a new mechanism of power was invented, surpassing juridico-political sovereignty, and it applied “primarily to bodies and what they do.”²⁵¹ The invention was disciplinary power, which forged “a discourse about a natural rule, or in other words a norm.”²⁵² It focused on anatomo-politics of the human body to produce subjects through processes of normalization. As disciplinary power operated to normalize society, the discourse of race struggle portrayed a war to cultivate *the* race against those defined outside the norm. This, for Foucault, was how state racism arose in the shift from defending society against external enemies to internal ones. But biopolitics surfaced in the meeting of disciplinary and regulatory powers. Returning to sovereign power, Foucault suggested, “The right of life and death was one of sovereignty’s basic attributes.”²⁵³ The switch from sovereign power to biopower became explained in a turn of phrase: “The right of sovereignty was the right to take life or let live. And then this new right is established: the right to *make live* and to *let die*.”²⁵⁴ In the late 18th century, the instruments of disciplinary power were infiltrated. “After a first

²⁵¹ Foucault, *Society Must Be Defended*, 35.

²⁵² *Ibid.*, 38.

²⁵³ *Ibid.*, 240.

²⁵⁴ *Ibid.*, 241, emphasis added.

seizure of power over the body in an individualizing mode,” Foucault wrote, “we have a second seizure of power that is not individualizing but, if you like, massifying, that is directed not at man-as-body but at man-as-species.”²⁵⁵ This is the biopolitics of the human race. The sovereign’s “right of the sword” to mete out spectacular death ceased,²⁵⁶ and “death was now something permanent, something that slips into life, perpetually gnaws at it, diminishes it and weakens it.”²⁵⁷ It is the letting die to maximize life that allows disciplinary and regulatory techniques to perform simultaneously, whilst maintaining their differentiated targets of the body and populations. Foucault concluded that biopower inheres in the state as it governs both individual bodies and populations of people. As an example, he argued that sex became targeted by a power organized through the management of life instead of the menace of death.²⁵⁸ With race and sexuality indispensable to the state, biopower appeals that the death of others makes one biologically stronger and thus strengthens the population.

Giorgio Agamben takes up Foucauldian biopolitics and argues that biopower does not eclipse sovereign power but is its origin. Looking at Greek philosophy and Roman law, Agamben claims bare life is “the life of *homo sacer* (sacred man), who *may be killed and yet not sacrificed*.”²⁵⁹ Examining the production of *homo sacer*, a life made bare by both juridico-political sovereignty and biopower, he says *homo sacer* is included within “juridical order [*ordinamento*] solely in the form of its exclusion...offer[ing] the key by

²⁵⁵ Ibid., 243.

²⁵⁶ Ibid., 240.

²⁵⁷ Ibid., 244.

²⁵⁸ Michel Foucault, *The History of Sexuality: An Introduction*, vol. 1, trans. Alan Sheridan (New York, NY: Vintage, 1990), 147.

²⁵⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen (Stanford, CA: Stanford University Press, 1998), 8, original emphasis.

which not only the sacred texts of sovereignty but also the very codes of political power will unveil their mysteries.”²⁶⁰ Agamben posits, interrogating the 20th century totalitarian state and its creation of the concentration camp, inclusion of (bare) life into (bio)politics is an expression of sovereignty’s state of exception. Sovereignty is exercised by declaring the exception to law, positioning sovereign authority within and exterior to juridical order.²⁶¹ This is the zone of indistinction between natural (life) and (political) right. Agamben regards this zone as “the originary structure in which law refers to life and includes it in itself by suspending it.”²⁶² A subject banned from juridical order, through a sovereign exception, is not outside of law but abandoned by it, “exposed and threatened on the threshold in which life and law, outside and inside, become indistinguishable.”²⁶³ These arguments revise the deserting of sovereignty and its periodization by Foucault. Agamben therefore asserts that sovereignty and biopower cannot be separated since “the inclusion of bare life in the political realm constitutes the original—if concealed—*nucleus of sovereign power*.”²⁶⁴ In this sense, my analysis in the chapter interrogates the nucleus of sovereign power that the US settler-state attempts to conceal in Hawai‘i.

Imagining the biopolitics of settler colonialism, Morgensen believes Agamben’s critique of Foucault should be adapted in two ways. First, Achille Mbembe utilizes Agamben’s concept of the sovereign state of exception to criticize Foucault’s displacement of biopower’s death function.²⁶⁵ Mbembe argues the colony is the principal

²⁶⁰ Ibid., 9, original emphasis.

²⁶¹ See Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty*, trans. George Schwab (Chicago, IL: Chicago University Press, 1985).

²⁶² Agamben, *Homo Sacer*, 28.

²⁶³ Ibid.

²⁶⁴ Ibid., 6, emphasis mine.

²⁶⁵ Achille Mbembe, “Necropolitics,” *Public Culture* 15, no. 1 (2003): 11.

site in which sovereign power is exercised outside law for the necropolitical making of death-worlds. “The colonies,” he says, “are the location par excellence where the controls and guarantees of juridical order can be suspended—the zone where the violence of the state of exception is deemed to operate in the service of ‘civilization.’”²⁶⁶ Second, Rifkin retools claims made by Agamben to suggest settler-state sovereignty is an empty symbol. For Rifkin, the US settler-state’s territorialization depends upon legally classifying Indigenous people as anomalous and peculiar. He demonstrates that Agamben’s theory of biopolitics neglects Indigeneity in three ways: the sovereign exception is divorced from territoriality, bare life is individuating, and state sovereignty is pre-supposed as given. Calling out the Eurocentric framing of the concentration camp, Rifkin highlights collectivized bare life on tribal reservations for Native Americans. He argues, as a corrective, it is a settler colonial state of exception that “emphasizes the coercive imposition of domesticity on Native peoples who neither sought nor desired it, foregrounding the ways the narration of Indigenous polities as subjects of domestic law depends on a process of exceptionalization,” whereby, “they axiomatically are consigned to a ‘peculiar,’ and thus regulatable, internality that forcibly disavows their autonomy and self-representations.”²⁶⁷ Therefore, settler sovereignty is an empty signifier that fretfully attempts to cohere by flagging Indigenous people, like Kānaka ‘Ōiwi pestered by US federal recognition, as peculiar anomalies within the alleged geopolitical terrain of the settler-state.

²⁶⁶ Ibid., 24.

²⁶⁷ Mark Rifkin, “Indigenizing Agamben: Rethinking Sovereignty in Light of the ‘Peculiar’ Status of Native Peoples,” *Cultural Critique* 1, no. 73 (2009): 114.

Building on these adaptations, Morgensen argues that American settler societies came to be through the genocidal elimination of Indigenous people by making *and* letting them die. Incorporating Patrick Wolfe’s ideas on the logic of elimination,²⁶⁸ Morgensen distinguishes “material conditions and discursive effects of settler from franchise colonies, where the latter defined by European control at a distance or as a minority, while the former pursue the wholesale replacement of Native peoples to establish a white settler majority.”²⁶⁹ Elimination “clears land for white settlers, and their brutal creation and reproduction of subject racialized populations through the transatlantic slave trade and indentured colonized labor to make settled lands productive.”²⁷⁰ Morgensen intervenes into Mbembe’s theory of colonial biopolitics, as it primarily references franchise colonies in Africa and Asia in the 19th and 20th centuries. Instead, he suggests that “settler colonization in the Americas from the sixteenth century functioned alongside colonization in Africa and Asia within modes of biopower to produce the biopolitics of settler colonialism.”²⁷¹ Reiterating Foucauldian biopolitics and Agamben’s revision, Morgensen compares their European environments to settler colonial contexts in the Americas whereby sovereign power introduced via colonialism from the 16th to 18th century was already biopolitical by casting Indigenous people in a state of exception. He expands Mbembe’s theorizing by claiming, “The logic of Indigenous elimination provided a necessary premise for any subsequent subjection of African, Asian, or Pacific peoples within the colonial state of exception on putatively emptied land.”²⁷² Although

²⁶⁸ Wolfe, “Settler Colonialism and the Elimination of the Native,” 387.

²⁶⁹ Morgensen, *Spaces Between Us*, 32.

²⁷⁰ *Ibid.*

²⁷¹ *Ibid.*, 33.

²⁷² *Ibid.*

Mbembe flags the slave plantation as the zone of indistinction experimenting with bare life, Morgensen suggests the exceptionalization of Indigenous people opened up lands across the Americas, through dispossession and elimination, for colonial violence against diasporic African peoples, and also Asian and Pacific people.²⁷³ Indeed, this is one way in which settler colonialism is wed to African slavery and anti-Blackness.

A biopolitical theory of settler colonialism frames how regulatory and disciplinary instruments of settler-state power have changed the shape of making and letting the Native die. As I will show, the management of Kanaka ‘Ōiwi life through US federal recognition camouflages a core impetus but nevertheless attempts to eliminate the Kanaka Maoli. In *Spaces Between Us*, Morgensen describes that Indigenous people have been marked racially primitive and sexually perverse in order to cultivate life for (white, queer) settler subjects upon stolen lands signified as territory of the settler-state. The transmission of biopower is premised on the global elimination and dispossession of the Native. “No account of biopolitics will explain a multiracial and transnational settler society or its projects into a colonized and globalized world,” Morgensen asserts, “unless its foundational conditioning by the biopolitics of settler colonialism and the logic of Indigenous elimination structures our theory of the exception and the colonial exercise of sovereignty.”²⁷⁴ Biopolitical elimination is tethered to “the geopolitical project of defining the territoriality of the nation.”²⁷⁵ In the subsequent sections, the biopolitical calculus in federal recognition of Kānaka Maoli attempts to geopolitically settle Hawai‘i, at long last.

²⁷³ Morgensen, “The Biopolitics of Settler Colonialism,” 58.

²⁷⁴ Morgensen, *Spaces Between Us*, 33-34.

²⁷⁵ Rifkin, “Indigenizing Agamben,” 94.

Advancing Reconciliation

Michael L. Connor, Deputy Secretary of the DOI, published an ANPRM on June 20, 2014 in the Federal Register to initiate an executive process for creating a new administrative rule to federally recognize a reorganized Native Hawaiian government. Echoing Jewell’s statement that prefaced this chapter, the ANPRM begins, “The Secretary of the Interior is considering whether to propose an administrative rule that would facilitate the reestablishment of a government-to-government 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.”²⁷⁶ The purported purpose of the ANPRM was to solicit public input on a proposed rule, to be codified in the Code of Federal Regulations (CFR), which could acknowledge and recognize a reorganized Native Hawaiian government. Based on executive powers of the federal government, the ANPRM provided legal notice for requesting feedback “on whether and how the DOI should facilitate the reestablishment of a government-to-government relationship with the Native Hawaiian community.”²⁷⁷ It thus offered five threshold questions to frame and guide the content of responses:

(1) Should the Secretary propose an administrative rule that would facilitate the reestablishment of a government-to-government relationship with the Native Hawaiian community?

(2) Should the Secretary assist the Native Hawaiian community in reorganizing its government, with which the United States could reestablish a government-to-government relationship?

²⁷⁶ Office of the Secretary, Department of the Interior, Advanced Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 1090-AB05,” *Federal Register* 79, no. 119 (June 20, 2014): 35296.

²⁷⁷ *Ibid*, 35297.

(3) If so, what process should be established for drafting and ratifying a reorganized Native Hawaiian government's constitution or other governing document?

(4) Should the Secretary instead rely on the reorganization of a Native Hawaiian government through a process established by the Native Hawaiian community and facilitated by the State of Hawaii, to the extent such a process is consistent with Federal law?

(5) If so, what conditions should the Secretary establish as prerequisites to Federal acknowledgement of a government-to-government relationship with the reorganized Native Hawaiian government?²⁷⁸

Public input and feedback on the proposed rulemaking could be submitted to the DOI in written and oral formats. Verbal comments could be offered during testimony at public meetings. A key mandate, the ANPRM declared the DOI would conduct public meetings on the islands of Hawai'i, Kaua'i, Lāna'i, Maui, Moloka'i, and O'ahu. It announced that public meetings would also be held in Indian Country on the continent. The first meeting was set to take place only three days after publication of the ANPRM. This meant there were just three days to read the ANPRM to prepare written feedback and oral testimonies for the initial public meeting. The notice for rulemaking, and its solicitation of public input and feedback, was undeniably rushed, occurring less than two months after Crabbe's letter that prefaced this chapter was sent to John Kerry and the Department of State.

In this section, the ANPRM established a legal history for advancing reconciliation by reestablishing a government-to-government relationship with a reorganized Native Hawaiian governing entity. Reestablishment of a government-to-government relationship between the US and Native Hawaiian community, according to

²⁷⁸ Ibid.

the ANPRM, reconciles historic injustices and past wrongs done to Kānaka Maoli by the federal government. Reconciliation appears to provide rights to self-determination that have been stripped from and denied to Kānaka Maoli. The ANPRM subtly suggests that federal recognition, by extension, is a form of self-determination. To create a new legal pathway for federal recognition of Kānaka Maoli, distinct from prevailing mechanisms of Congressional legislation and current executive procedures, the ANPRM emphasized a special political relationship with trust responsibilities already exists between the federal government and Native Hawaiians. This legal history for advancing reconciliation, claiming wrongdoing to engineer and enforce a special trust relationship for legitimating juridical authority, undergirds the entire rulemaking process and its administrative rule.

The legal history constructed in the ANPRM describes three narratives that explain and excuse federal recognition. First, Congressional statutes created a special political and trust relationship with the Native Hawaiian community. After reiterating that Native Hawaiians are an Indigenous people that governed the Hawaiian Kingdom, miming Sections 7512 of Title 20 and 11701 of Title 42 in Federal Code, the ANPRM identified that throughout the 19th century and until 1893 the US “recognized the independence of the Hawaiian Nation...[and] extended full and complete diplomatic recognition to the Hawaiian Government” by making treaties for friendship, commerce, and navigation in 1826, 1849, 1875, and 1887.²⁷⁹ This initial legal relationship was without special trust obligations but diplomacy between two independently sovereign nation-states. However, this relation was supplanted for another, transforming an

²⁷⁹ Department of the Interior, Advanced Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 35298.

international association into a site of federal jurisdiction. Discussing that the Hawaiian Kingdom was overthrown by “a small group of non-Hawaiians, aided by the United States Minister to Hawaii and the Armed Forces of the United States,”²⁸⁰ the ANPRM asserted a joint resolution passed by Congress in 1898 to annex the Hawaiian islands forged a new relationship. This inaugurated the federal government’s original recognition of a domestic relationship with Kānaka ‘Ōiwi, as a community claiming prior belonging to US territory rather than people who are Indigenous to Hawai‘i *and also* national citizens of the Hawaiian Kingdom. International recognition of the Hawaiian Kingdom’s national sovereignty turned into Congressional acknowledgement of a Native Hawaiian community within the US. Subsequently, the advanced notice discussed that Congress instituted the Hawaiian Organic Act in 1900 to create the Territory of Hawai‘i and acquire the “ceded lands” from the Hawaiian Kingdom, inasmuch as proceeds from the lease and sale of these lands would benefit inhabitants of Hawai‘i, including Kānaka ‘Ōiwi. It then discussed that Congress instituted the Hawaiian Homes Commission Act (HHCA) in 1920 to “rehabilitate the native Hawaiian population,” after their decline “by some estimates from several hundred thousand in 1778 to only 22,600,” by designating approximately 200,000 acres of “ceded lands” for Native Hawaiians to reestablish traditional ways of life. In her comprehensive analysis of this legislation, Kauanui posits the HHCA “institutionalized a trust agreement, constituting a special legal relationship.”²⁸¹ Lastly, the ANPRM discussed that Congress vested authority in the State of Hawai‘i, through the Admissions Act in 1959, to administer and manage the lands set

²⁸⁰ Ibid.

²⁸¹ Kauanui, “Precarious Positions,” 5.

aside for rehabilitating “native Hawaiians” under the HHCA. The ANPRM argued, “Congress has enacted more than 150 statutes recognizing and implementing a special political and trust relationship with the Native Hawaiian community.”²⁸² These statutes constitute a legal relationship that the DOI, in its executive rulemaking process, interprets and invokes to classify the US-Native Hawaiian relation as politically special and premised upon trust. This special trust relationship that the US alleges to have formed historically and maintained legally with the ‘Ōiwi community, however, is not formally recognized as a government-to-government relationship.

Second, Congressional statutes instituted federal programs and services for Kānaka Maoli. Another element of how the federal government claims its relationship with Kānaka Maoli is through Congressional programs and services developed to benefit Native Hawaiians. “Since Hawaii’s admission to the Union,” according to the ANPRM, “Congress has enacted dozens of statutes on behalf of Native Hawaiians pursuant to the United States’ recognized political relationship and trust responsibility.”²⁸³ It listed a few of these statutes that have created programs and services for Native Hawaiians. The Native Hawaiian Health Care Improvement Act, Native Hawaiian Education Act, Workforce Investment Act, and Native American Programs Act generated special programs for health care, education, loans, and employment. The Native American Languages and National Historic Preservation Acts served to protect and preserve Native Hawaiian culture, language, and historical sites. Congress also extended some of the rights and privileges granted to American Indian, Alaska Native, Eskimo, and Aleut

²⁸² Department of the Interior, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 35298.

²⁸³ Ibid.

peoples—specifically from Native American Programs Act, American Indian Religious Freedom Act, National Museum of the American Indian Act, and National American Graves Protection and Repatriation Act—onto Kānaka Maoli by classifying Native Hawaiians as Native Americans. This is where the ANPRM begins to evacuate Kanaka Maoli national sovereignty by distinctly including Native Hawaiian persons, and making them primarily legible, in a US legal framework of civil rights and affirmative action protections for Native American people. The ANPRM phrases it this way, “Congress has consistently enacted programs and services expressly and specifically for the Native Hawaiian community that are, in many respects, *analogous to, but separate from*, the programs and services that Congress has enacted for federally recognized tribes in the continental United States.”²⁸⁴ The language “analogous to but separate from” is, in my estimation, a deliberate mechanism in the executive rulemaking process to interpellate Kānaka Maoli as subjects of federal law. It continued, “As Congress explained, it ‘does not extend services to Native Hawaiians because of their race, but because of their unique status as the indigenous peoples of a once sovereign nation as to whom the United States has established a trust relationship.’”²⁸⁵ Later in the analysis, I expose this rhetorical maneuver, suggesting Native Hawaiians—an Indigenous population the federal government claims a political relationship with, trust obligations to, and thus implements special programs and services for—are analogous to but separate from Native Americans, to be a sly legal discourse and technique of settler-state power.

²⁸⁴ Ibid., 35299, emphasis mine.

²⁸⁵ Ibid.

Third, federal recognition of Native Americans represents a formal government-to-government relationship. This government-to-government relationship purports to impart self-determination, sovereignty, and other benefits onto Native American tribes. “Yet,” the ANRPM stated, this has “long been denied to one place in our Nation, even though it is home to one of the world’s largest indigenous communities: Hawaii.”²⁸⁶ Two logics stand out in this passage. On one hand, the benefits of a government-to-government relationship are denied to Kānaka Maoli. Such exclusion rationalizes new instruments for inclusion, which are signified as expressions of equality, justice, and reconciliation. On the other hand, acknowledging Kānaka ‘Ōiwi are a large community of Indigenous people, Hawai‘i gets claimed as “one place in our Nation.” This suggests Hawai‘i has been geographically *included* within the US settler-state but Kānaka Maoli are politically *excluded* from a legal status and set of rights, enjoyed by Indian tribes, under federal law. In fact, a group of ‘Ōiwi individuals and organizations filed a lawsuit in 2001 that challenged the DOI’s Procedures for Federal Acknowledgement of Indian Tribes, in Part 83 of Title 25 in the CFR, which excluded Native Hawaiians from eligibility for federal recognition. In the Circuit Court decision for *Kahawaiolaa v. Norton* (2004), the Procedures for Federal Acknowledgement were upheld. The ANPRM noted, “the Ninth Circuit upheld the *geographic limitation* in the part 83 regulations, ‘concluding that there was a rational basis for the Department [of the Interior] to distinguish between Native Hawaiians and tribes in the continental United States.’”²⁸⁷ Yet, the new proposal for rulemaking could bypass Part 83’s geographic

²⁸⁶ Ibid., 35298.

²⁸⁷ Ibid., 35299, emphasis mine.

limitation because the Circuit Court expressed the DOI may apply its expertise to determine whether Native Hawaiians could be recognized on a government-to-government basis. Flagging the administrative rule for federal recognition as an accommodating and conciliatory gesture of political inclusion, the ANPRM continued, “Reestablishing a government-to-government relationship with a reorganized sovereign Native Hawaiian government that has been acknowledged by the United States could enhance Federal agencies’ ability to implement the established relationship between the United States and the Native Hawaiian community, while strengthening the self-determination of Hawaii’s indigenous people and facilitating the preservation of their language, customs, heritage, health, and wealth.”²⁸⁸ Federal recognition would therein reestablish a formal government-to-government relationship between the US and a reorganized Native Hawaiian governing entity. This relationship could ameliorate the capacity of federal agencies to enforce the special political and trust affiliation with Kānaka Maoli. However, creating an administrative rule to amend executive procedures for recognizing the sovereignty of a reorganized Native Hawaiian government would strengthen the self-determination necessary to preserve Indigenous language, customs, heritage, health, and wealth in Hawai‘i. These are the alleged benefits and gifts presented to Kānaka Maoli in the US settler-state’s offer of federal recognition.

This legal history highlights that the ANPRM is not the first proposal to federally recognize Kānaka Maoli. Proposed in 2000 by US senator Daniel Akaka, the Native Hawaiian Government Reorganization Act, also known as the Akaka Bill, was an earlier attempt to reorganize a Native Hawaiian government to be federally recognized.

²⁸⁸ Ibid.

Kauanui disentangles three key legal developments that configured advocacy for the federal recognition offered by the Akaka Bill.²⁸⁹ The first was a misguided interpretation of the US Supreme Court ruling in *Rice v. Cayetano* (2000). The second was a succession of lawsuits after the *Rice v. Cayetano* decision. The third was a genealogy of Congressional acts that recognize Kānaka Maoli as Indigenous people and call for reconciliation, such as Public Law 103-150 passed in 1993, also called the Apology Resolution. *Rice v. Cayetano* opened up the programs and services for Kānaka Maoli to attack. Written by Justice Anthony M. Kennedy, the majority opinion ruled that the State of Hawai‘i’s constitutional provision to restrict voting eligibility for trustees of OHA to only Kānaka Maoli violated the Fifteenth Amendment by engaging in race-based voting qualifications. Lawsuits emerged subsequently alleging state and federal policies to implement programs and services for Kānaka Maoli, like OHA itself, were racially discriminatory. Raiding civil rights and affirmative action protections, the political status of Kanaka ‘Ōiwi Indigeneity became reduced to a racial identification. “Within the broader context of these legal assaults, which deem any indigenous-specific program racist,” Kauanui explains, “many Native Hawaiians and their allies support Akaka’s proposal for federal recognition, since he pitched the legislation as a protective measure against such lawsuits.”²⁹⁰ This is how federal recognition as a protective measure entered into discourse. Kauanui says that when Akaka introduced the bill, he named the Apology Resolution, which recognizes the sovereignty of Kānaka Maoli and apologizes for the

²⁸⁹ J. Kēhaulani Kauanui, “Resisting the Akaka Bill,” in *A Nation Rising: Hawaiian Movements for Life, Land, and Sovereignty*, edited by Noelani Goodyear-Ka‘ōpua, Ikaika Hussey, and Erin Kahunawaika‘ala Wright (Durham, NC: Duke University Press, 2014), 312-330.

²⁹⁰ *Ibid.*, 316.

US-backed illegal overthrow of the Hawaiian Kingdom, as the Akaka Bill's basis for pursuing reconciliation. "In the post-*Rice* climate," she writes, "he suggested that the apology provided the foundation for reconciliation and that the Akaka Bill was the means by which a resolution was best served."²⁹¹ The Apology Resolution is the fundamental legal authority in federal law for advancing reconciliation with Kānaka Maoli through recognition.

The ANPRM used the Apology Resolution to rationalize federally recognizing Kānaka 'Ōiwi as an advancement of reconciliation. "In 1993," it stated, "Congress enacted a joint resolution to acknowledge the 100th anniversary of the overthrow of the Kingdom of Hawaii and to offer an apology to Native Hawaiians."²⁹² Turning to Congress' words in the Apology Resolution, the ANPRM identified that the federal government "express[ed] its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people."²⁹³ Reiterating the resolution's apology for overthrowing the Hawaiian Kingdom, the ANPRM manipulated the federal government's admission of culpability to demonstrate that "there has been no formal, organized Native Hawaiian government since 1893, when the United States helped overthrow the Kingdom of Hawaii,"²⁹⁴ and thus suggest reestablishing a

²⁹¹ Ibid., 317.

²⁹² Department of the Interior, "Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community," 35299.

²⁹³ "Joint Resolution to Acknowledge the 100th Anniversary of the January 17, 1893 Overthrow of the Kingdom of Hawaii and to Offer Apology to Native Hawaiians on Behalf of the United States for the Overthrow of the Kingdom of Hawaii," Public Law 103-150, *U.S. Statutes at Large* 1510 (1993).

²⁹⁴ Department of the Interior, "Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community," 35298.

government-to-government relationship can reconcile this. Namely, reestablishing a government-to-government relationship with Kānaka Maoli under federal law is a way for the US to *right its own wrong*. With this in mind, the ANPRM acknowledged that the US thwarted ‘Ōiwi rights to national and territorial sovereignty. The Apology Resolution outlines, “The indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.”²⁹⁵ This is a remarkable legal claim because it suggests Kānaka ‘Ōiwi are a sovereign Indigenous people that have never surrendered the Hawaiian Kingdom’s national land to the federal government. However, the Apology Resolution is surreptitious, and the ANPRM mimics its furtiveness. The Apology Resolution goes on, “Nothing in this Joint Resolution is intended to serve as a settlement of any claims against the United States.”²⁹⁶ Claiming the Apology Resolution is a no-fault apology, Kauanui contends, “It is clear that this particular apology is nothing but an empty gesture that served a limited political goal to recognize the one hundredth anniversary of the U.S.-backed unlawful overthrow of the Hawaiian Kingdom.”²⁹⁷ The ANPRM conveys a “sorry state,” borrowing Kauanui’s phrasing.²⁹⁸ It did so by weaponizing the apology to note, “Promulgating a rule would not (1) alter the fundamental nature of the political and trust relationship established by Congress between the United States and the Native Hawaiian community, (2) authorize

²⁹⁵ *Joint Resolution*, Public Law 103-150, 1513.

²⁹⁶ *Ibid.*, 1514

²⁹⁷ J. Kēhaulani Kauanui, “A Sorry State: Apology Politics and Legal Fictions in the Court of the Conqueror,” in *Formations of United States Colonialism*, ed. Alyosha Goldstein (Durham, NC: Duke University Press, 2014), 110.

²⁹⁸ *Ibid.*, 113.

compensation for past wrongs, or (3) have any direct impact on the status of the Hawaiian homelands.”²⁹⁹ The apologetic settler-state, pretending to want to cure harms it has perpetrated, opens up legal mechanisms for federal recognition under a veil of reconciliation to coerce Kānaka Maoli into a legal, territorial settlement. A sorry state of things, indeed. Commenting on the settlement process enacted through federal recognition, Julian Aguon refers to this as “the red carpet the assassin lays out before the murder takes place.”³⁰⁰ In the following section, I discuss how Kānaka Maoli refused the supposed gifts offered through federal recognition’s reconciliation, and in turn rejected the settler-state’s scheme for colonial domination of Kānaka Maoli and colonial dispossession of Hawai‘i.

Articulating ‘A‘ole

When the DOI hosted public meetings in the summer of 2014 to solicit feedback on whether and how the US should reestablish a government-to-government relationship with a reorganized Native Hawaiian governing entity, Kānaka Maoli said no. At the initial public meeting in Honolulu, O‘ahu on June 23, Juanita Kawamoto told representatives from the DOI, “No thank you.” “I’d like to be clear,” she stressed, “all the things that you’re doing here today are completely inappropriate, and I’m speaking in clear English so that all of you can understand, this is very inappropriate, to the point of absolutely disrespectful to our people here.” Kawamoto’s message was made clear and

²⁹⁹ Department of the Interior, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 35299.

³⁰⁰ 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 Law* 1, no. 1 (2012): 64.

others followed suit. On the same day, in the meeting at Waimānalo, O‘ahu, Shane Pale generously addressed each of the threshold questions offered in the ANPRM, described in the last section. Answering all threshold questions, he retorted, “The short answer, again no, no, no, no and no.” Five nays for five threshold inquiries. Although there was very short notice given by the DOI, Kānaka Maoli mobilized quickly. Those that provided verbal input on the ANPRM at public meetings, like Kawamoto and Pale, declined its offer of federal recognition, unapologetically. In this section, I mine the official transcripts that recorded oral testimony from DOI public meetings across Hawai‘i and Indian Country in 2014, and show how Kānaka ‘Ōiwi rejected federal recognition and refused the gift of its reconciliation. Analyzing testimony from these meetings for mo‘olelo of opposition, I demonstrate that repudiation of the executive rulemaking procedure and its proposed administrative rule was articulated through the utterance of ‘a‘ole, literally meaning no. Although ‘a‘ole appeared in mo‘olelo challenging federal recognition in 2014 (see figure 12), ‘a‘ole is part of a larger mo‘okū‘auhau and historical genealogy of ‘Ōiwi resistance to American imperialism, empire, colonialism, and settler colonial capitalism in Hawai‘i. I track how articulations of ‘a‘ole against federal recognition were conveyed in relation to histories, discourses, and embodiments of Hawaiian national and Indigenous sovereignties. ‘A‘ole contributes to an archive of Kanaka Maoli refusal. However, some opposition to the DOI, ANPRM, and federal recognition reified paradigmatic Indianness. I close this section by reflecting, firstly, on how ‘Ōiwi criticisms of settler-state recognition can transit US empire by exercising anti-intersectionality in abjections of the Indian and, secondly, that ‘a‘ole provides a

dialectical framework for relations of solidarity in the politics and practice of Indigenous refusal.



Figure 12. ‘A‘OLE DOI NO ADMINISTRATIVE RULE CHANGE. Source: *Hawaii Reporter*.³⁰¹

The public meeting testimony illuminates that Kānaka Maoli overwhelmingly disapproved of an executive rulemaking process and administrative rule to reestablish a government-to-government relationship between the US and Native Hawaiian community. In Kapa‘a, Kaua‘i on July 1, James Alalan Durest tackled the DOI’s threshold questions in the ANPRM and exclaimed, “For you guys’ answers for the questions, hell no.” For Durest and many others, disapproval was vehement and explicit. But it was much more than an answer of no. Opposition was distinctively articulated as

³⁰¹ Malia Zimmerman, “Obama administration hearings in Hawaii incite racial disputes,” *Hawaii Reporter*, June 24, 2014, <http://www.hawaiireporter.com/obama-administration-hearings-in-hawaii-incite-racial-disputes>.

‘a‘ole. At the same meeting in Kapa‘a, Puanani Rogers posited, “I protest and oppose the advance notice proposed rulemaking...and say ‘a‘ole, which means no in English.” In their *Hawaiian Dictionary*, Mary Kawena Pukui and Samuel H. Elbert suggest that ‘a‘ole translates, “No, not, never; to be none, to have none.”³⁰² Those testifying against the DOI and its ANPRM wielded this concise word with commanding meaning in ‘ōlelo Hawai‘i to reject the US settler-state’s politics and policy of recognition. Gale Ku‘ulei Baker Miyamura Perez attended the July 3 meeting in Waimea, Hawai‘i and told the DOI, “I’m here to say ‘a‘ole, or no, to all of your questions.” Although five threshold questions oriented public input and feedback, there were also 19 procedural questions tucked into the conclusion of the ANPRM—questions mainly about processes and criteria for eligibility to participate in governmental reorganization, drafting a constitution, and ratifying a constitution—that Kānaka ‘Ōiwi like Perez answered. E. Kalani Flores also testified in Waimea. He declared, “We say ‘a‘ole, no, to all the questions. What it’s been is occupation, and the occupation has caused destruction, desecration to our lands.” Flores juxtaposed the symbolic proposition of recognition with realities of military occupation and environmental desecration. In his argumentation, reestablishing a government-to-government relation does not and cannot address the materiality of settler-state violence upon the land. Building on these comments, Mitchell Alapa noted in Kapa‘a, “All I got to say to you folks is ‘a‘ole. All these things is ‘a‘ole.” The ‘a‘ole went farther, too. It suggested the DOI must leave or, as Heali‘i Kauhane phrased it in Keaukaha on July 2, “go away.” Queries on whether and how the DOI should create a new administrative rule for federally recognizing Kānaka Maoli were not turned down

³⁰² Pukui & Elbert, *Hawaiian Dictionary*, 27.

mildly. The rejection vigorously asserted that the federal government retreat from the Hawaiian islands back to the American continent. Lawrence Aki, on June 28 in Kaunakakai, Moloka‘i, issued an order: “You need to go home.” “These hearings,” Walter Ritte summarized at the same meeting, “represent an honest reaction from the Hawaiian community. The majority is in no mood to continue our subservient relationship with the United States.” This was “a politicized expression of Indigenous anger and outrage directed at a structural and symbolic violence that still structures our lives, our relations with others, and our relationships with land,” Coulthard reminds us.³⁰³ According to a quantitative study of oral feedback on the ANPRM, approximately 95% of Kanaka Maoli testifiers opposed the proposed rule making.³⁰⁴ The honest reaction, in the words of Ritte, was qualitatively and quantitatively overwhelming. It communicated an unquestionable disapproval of federal recognition as well as an utter contempt, disgust, and resentment for the colonial relations of subordination that the US settler-state attempts to continue.

‘A‘ole was articulated in relation to an intergenerational history of resistance. “Oh, honest Americans,” Lākea Trask joshed at the Keaukaha meeting, “I stand before you today empowered by the nearly 40,000 who signed the Ku‘e Petitions and said no to annexation, the hundreds who testified already on their behalf. I stand here, humbled, ha‘aha‘a, that you folks have come all this way to meet us face-to-face, alo to alo. And I stand before you, angered and outraged at your motives for being here, for trying once again to steal our identity.” Many testified, including myself, that their ancestors

³⁰³ Coulthard, *Red Skin, White Masks*, 109.

³⁰⁴ “Protest Na‘i Aupuni,” *Protest Na‘i Aupuni*, accessed September 21, 2018, <http://protestnaiaupuni.com>.

participated in the Kū‘ē Petitions to fight against US annexation of Hawai‘i in 1897, illustrating a truth that the Hawaiian Kingdom never consented to submit to the national sovereignty of the US and the Indigenous people of Hawai‘i continue to refuse consent to be subjected under the executive authority of the federal government. As Trask remarked, the proposal for federal recognition was a contemporary iteration of prolonged efforts to burgle ‘Ōiwi Indigeneity and rob Hawaiian sovereignty. The Kū‘ē Petitions successfully protected against this in the late 19th century, and they provide a genealogical context and rationale for ‘Ōiwi resistance to the US settler-state. “Refusal holds on to a truth,” Simpson asserts, “structures this truth as stance through time, as its own structure and comingling with the force of presumed and inevitable disappearance and operates as the revenge of consent.”³⁰⁵ So on July 8 in Kahului, Maui, Napua Nakasone stood firm on her truth: “Just as my kupuna wahine’s signature proudly sits on the ku‘e petition of December 1897. I want my children, and my children’s children, and their children after that to know beyond a shadow of a doubt that I wholeheartedly oppose the United States’ occupation of my Hawai‘i.” In the spirit of ancestral relatives who opposed the commencement of US occupation in the late 19th century, Kānaka Maoli testifying against the DOI and ANPRM in the 21st century refuse to reconcile with the US by reestablishing a government-to-government relationship because federal recognition masquerades the settler-state’s unabated occupation of Hawai‘i. From Nakasone’s invocation of her kupuna wahine (female ancestor) to her children and future descendants, it was mo‘okū‘auhau consciousness in action.

³⁰⁵ Audra Simpson, “Consent’s Revenge,” *Cultural Anthropology* 31, no. 3 (2016): 330.

Articulating ‘a‘ole was rooted to and enhanced an archive of Kanaka Maoli refusal. It is an archive full of rich mo‘olelo—histories, stories, and accounts of our refusal. On one hand, the ‘a‘ole in testimony against federal recognition was established through a history of ‘Ōiwi refusals. On the other hand, these particular expressions of ‘a‘ole contributed to an enduring genealogy of Kanaka Maoli refusal. “The past is referred to as *Ka wa mamua*, ‘the time in front or before.’ Whereas the future, when thought of at all, is *Ka wa ma hope*, or ‘the time which comes after or behind.’ It is as if the Hawaiian stands firmly in the present,” Lilikalā Kame‘eleihiwa says, “with his back to the future, and his eyes fixed upon the past, seeking historical answers for present-day dilemmas.”³⁰⁶ With 1,795 pages of transcripts recorded from 20 public meetings across six Hawaiian islands and five tribal territories in 2014, the official record is overflowing with, and haunted by, utterances of no and ‘a‘ole from Kānaka Maoli. And there is more. My analysis does not explore the video recordings of meetings, which are available online, or in-situ observations of the public meetings. My argument is that this archive of refusal, documenting explicit articulations of ‘a‘ole to the DOI and its ANPRM, is based on and perpetuates mo‘olelo to overturn the US settler-state in Hawai‘i as a domain of knowledge that shapes truth for the lāhui Hawai‘i in the struggle over federal recognition. It is another gift of sovereignty that I desire to share.

However, some testimony against federal recognition replicated settler colonial relations of domination and dispossession. An exemplar from public meetings elucidates this. In Keaukaha, Mililani Trask testified against the DOI and ANPRM. Beginning with opposition to the US settler colonial relationship extended to Kānaka Maoli, she said,

³⁰⁶ Kame‘eleihiwa, *Native Land and Foreign Desires*, 22-23, original emphasis.

“When the federal government and the state agreed to impose upon our peoples the yoke of perpetual wardship, this yolk, we break. We cannot accept it any further.” Trask then conveyed her specific disapproval. “Our response to the interrogatories that are posed by Interior are all no. And the reason why,” she opined, “is because we are capable of being self-governing. But we are not capable of expressing our right to self-determination because federal policy limits this. We are not Indians. We will never be Indians and the federal Indian policy is inappropriate for our peoples.” This is an example of what Amy L. Brandzel calls anti-intersectionality.³⁰⁷ Brandzel suggests that the settler-state does not desire intersectionality but actively refutes it by proliferating anti-intersectionality, or “epistemologies of identity that are normative, single-axis, and comparatively valued against other categories of identity.”³⁰⁸ They argue, “Hegemonic anti-intersectionality renarrativizes the naturalness and idealization of normative categories and reenacts violence to nonnormative categories by renaturalizing their inhumanity.”³⁰⁹ In *Against Citizenship*, Brandzel reflects on rhetoric deployed by Kānaka Maoli during the DOI’s public meetings as an example of how the US settler-state uses disciplinary powers of racialization to pass through and divide Indigenous populations regulated by its colonial power. “Kānaka Maoli argued that they are ‘not Indians,’ and that the offer to recognize a ‘government to government’ relationship on the U.S. nation-state’s terms was a process of transforming Kānaka Maoli into ‘tribes’ and ‘Indians,’” according to Brandzel.³¹⁰ This logic played out in Trask’s testimony. Although some Kānaka Maoli communicated

³⁰⁷ Amy L. Brandzel, *Against Citizenship: The Violence of the Normative* (Urbana, IL: University of Illinois Press, 2016).

³⁰⁸ *Ibid.*, 23.

³⁰⁹ *Ibid.*, 24.

³¹⁰ *Ibid.*, 101.

opposition to federal regulation in solidarity with American Indian people and their tribal governments, Brandzel asserts testimonies that articulated anti-Indian rhetoric hindered possibilities for intersectional coalitions and resistance *within* the identificatory category of Indigeneity by reifying discourses of colonial racism. In her protest of federal recognition, Trask concluded, “You can braid my hair and stick feathers in it, but I would never be an Indian. I will always be a Hawaiian.” Instances of this anti-intersectional logic are peppered throughout the archive of refusal. Doing so, Trask and other Kānaka Maoli renarrate “‘Indian’ as sign within U.S. colonial discourse,” which Byrd says, “serves as a deracinated supplement that signifies the underside of imperial dominance.”³¹¹ My hope in this discussion is to name rather than silence and denaturalize instead of normalize an anti-Indian rhetoric in the genealogy of Kanaka Maoli resistance to the US settler-state. Otherwise, paradigmatic Indianness continues to circulate and prop up the colonialism and empire of the US settler-state. “Because ‘Indianness’ serves as the ontological scaffolding for colonialist domination, anticolonial resistances, which align themselves against ‘Indianness’ as a manifestation of empire,” such as Trask’s stand against federal recognition of Kānaka ‘Ōiwi in Hawai‘i, “risk reflecting and reinscribing the very colonialist discourses used to possess and contain American Indian nations back onto the abjected ‘Indian’ yet again.”³¹² Instead of challenging federal recognition through paradigmatic Indianness, I suggest ‘a‘ole offers an intersectional framework to filter the cacophony of settler-state techniques of racialization and colonization. Testifying ‘a‘ole to the DOI and ANPRM in (racialized) abjections of the

³¹¹ Byrd, *The Transit of Empire*, 157.

³¹² *Ibid.*, 157-158.

Indian testifies, at the same time, ‘ae or yes to material conditions of (colonial) violence that Native American peoples are subjected through federal Indian law. This is a dialectic orientation to consider what refusal rejects as well as what it may affirm. ‘A‘ole can be a critically intersectional framework that is intellectually promiscuous enough to say no to federal recognition without saying ‘ae to the settlement of other Indigenous people, which further emboldens US juridical and territorial power to settle Kānaka Maoli and Hawai‘i.

Notices of Settlement

Despite explicit opposition to the federal recognition proposed in the ANPRM, the DOI published a Notice for Proposed Rulemaking (NPRM) on October 1, 2015. The DOI suggested that a majority of written comments submitted in reference to the ANPRM supported federal recognition. Exactly 5,164 written comments were received, “more than half of which were identical postcards submitted in support of reestablishing a government-to-government relationship through Federal rulemaking.”³¹³ The privileging of written comments over verbal testimony was a blatant dismissal of opposing input and feedback from Kānaka Maoli at public meetings. “Despite 90% of the oral testimonies being in opposition to drafting a proposed rule,” according to the coalition Protest Na‘i Aupuni, “they were not counted and the DOI has never given a clear answer as to ‘Why?’”³¹⁴ By doing so, the DOI claimed the general public

³¹³ Office of the Secretary, Department of the Interior, Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 1090-AB05,” *Federal Register* 80, no. 190 (October 1, 2015): 59118.

³¹⁴ “Manufactured Consent,” *Protest Na‘i Aupuni*, accessed September 26, 2018, <http://protestnaiaupuni.com/doi-call-in-teleconference>.

“overwhelmingly favored creating a pathway for reestablishing a formal government-to-government relationship.”³¹⁵ In this section, I argue that the ANPRM and NPRM were notices of settlement. Settlement was signified as a two-fold procedure. The ANPRM and NPRM were formal legal notices that announced the federal government was attempting to test and settle the precarious biopolitical position of Kānaka Maoli to geopolitically settle Hawai‘i for the US settler-state. The NPRM was the second component in the DOI’s executive rulemaking process to create a new administrative rule for reestablishing a government-to-government relationship with a reorganized Native Hawaiian government. The proposed rule would not assist in reorganizing a Native Hawaiian government, nor would it help in drafting a constitution for what it called the reorganized Native Hawaiian Government Entity (NHGE). The NPRM indicated, “The Native Hawaiian community itself would determine whether and how to reorganize its government.”³¹⁶ The notice asserted instead that the rule “would establish an administrative procedure and criteria that the Secretary would use if the Native Hawaiian community forms a unified government that then seeks a formal government-to-government relationship with the United States.”³¹⁷ What the DOI garnered from responses to the ANPRM was that federal law should open a procedural door for the

³¹⁵ Office of the Secretary, Department of the Interior, “Interior Department Proposes Pathway for Re-Establishing a Government-to-Government Relationship with the Native Hawaiian Community,” press release, September 29, 2015, <http://www.doi.gov/pressreleases/interior-department-proposes-pathway-re-establishing-government-government>.

³¹⁶ Department of the Interior, Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 1090-AB05,” 59114.

³¹⁷ *Ibid.*, 59113-59114.

Native Hawaiian community to choose to walk through or not. The choice to be federally recognized is up to Kānaka Maoli.

The NPRM briefly summarized and addressed 14 thematic responses to the ANPRM. It scorned opposing responses that objected to US jurisdiction, from federal and state governments, over Kānaka Maoli and Hawai‘i. The NPRM retorted, “Comments about altering the fundamental nature of the political and trust relationship that Congress has established between the United States and the Native Hawaiian community were outside the ANPRM’s scope and therefore did not inform the development of the proposed rule.”³¹⁸ The rulemaking process openly omitted these comments, these choices. It subsequently posited, “The Department is bound by Congressional enactments concerning the status of Hawaii. Under those enactments and under the United States Constitution, Hawaii is a State of the United States of America.”³¹⁹ Reiterating the legal history produced in the ANPRM, it argued that citizens of the State of Hawai‘i, through a referendum election, consented to all provisions of the Admissions Act in 1959. “The comments in response to the ANPRM that call into question the State of Hawaii’s legitimacy, and its status as one of the United States under the Constitution,” the NPRM stated, “therefore are inconsistent with the express determination of Congress, which is binding on the Department.”³²⁰ In other words, any opposition based in argumentation that the US federal government and State of Hawai‘i do not maintain jurisdiction over Kānaka Maoli and Hawai‘i would be dismissed from the executive rulemaking process. Valuing written comments, the NPRM thus did not hold public meetings to solicit verbal

³¹⁸ Ibid., 59120.

³¹⁹ Ibid.

³²⁰ Ibid.

testimony. Public input and feedback were only accepted through written forms, which in the case of the ANPRM supported federal recognition vis-à-vis identical postcards that were repeatedly submitted *and* uniquely counted.

The NPRM manipulated the ANPRM's contrived legal history, establishing the federal government's special trust relationship with the Native Hawaiian community, as a way to rationalize that Congress' plenary power over Native Americans extends to Native Hawaiians and a new administrative rule for federal recognition would not alter that juridical power but would strengthen its territorial sovereignty in Hawai'i. In its overview of the proposed rule, the DOI discussed how the special trust relationship between the federal government and Native Hawaiian community authorized the executive rulemaking process because of Congress' existing jurisdiction over Indigenous populations within the US. "Through its plenary power over Native American affairs," the NPRM alleged, "Congress recognized the Native Hawaiian community by passing more than 150 statutes during the last century and providing special Federal programs and services for its benefit."³²¹ Whereas the ANPRM pronounced a legal history for advancing reconciliation, the NPRM announced that this legal history is a settled matter under Congressional authority. "The existing body of legislation makes plain that Congress determined repeatedly, over a period of almost a century," the NPRM suggested, "that the Native Hawaiian population is an existing Native community that is within the scope of the Federal Government's powers over Native American affairs and with which the United States has an ongoing special political and trust relationship."³²² In

³²¹ Ibid., 59123.

³²² Ibid.

such logic, reestablishing a government-to-government relationship with a reorganized NHGE would not mirror the nation-to-nation association developed between the US and Hawaiian Kingdom. Delineating these relations, the NPRM asserted, “The Native Hawaiian Governing Entity would remain subject to the same authority of Congress and the United States to which those tribes are subject and would remain ineligible for Federal Indian programs, services, and benefits.”³²³ Kānaka ‘Ōiwi would be officially denationalized as subjects of the Hawaiian Kingdom and regulated as an Indigenous population, not comprising a tribe eligible for federal Indian programs and services, subjected to the juridical *and* territorial sovereignty of the US settler-state. The pervasive rhetoric that Native Hawaiians are “analogous to but separate from” Native Americans legally resolves the precarious position of Kānaka Maoli to settle the territoriality of Hawai‘i as geographically part of the US settler-state. The NPRM blatantly argued, “Reestablishment of the formal government-to-government relationship will not affect title, jurisdiction, or status of Federal lands and property in Hawaii. This provision does not affect lands owned by the State of Hawaii or provisions of State law...And nothing in this proposed rule would alter the sovereign immunity of the United States or the sovereign immunity of the State of Hawaii.”³²⁴ In effect, the proposed administrative rule would confirm the federal government’s avowed special political relationship with trust obligations, pulling Kānaka Maoli deep into the undertow of Congress’ plenary power, and could formally recognize a Native Hawaiian Governing Entity as a dependent ward of the settler-state without legal rights to land and resources in Hawai‘i. This is precisely

³²³ Ibid., 59126.

³²⁴ Ibid.

how the ANPRM and NPRM acknowledged, discussed, and rationalized that the legal status of Kānaka Maoli would be settled and Hawai‘i would be settled as territory possessed by the US settler-state.

Rule of Recognition

In this concluding section, I analyze the DOI’s Final Rule and contend that it, strengthening the geopower of US settler colonial biopolitics, institutionalized a new paradigm for federal recognition that seeks to incorporate Native Hawaiians as Indians without land. Whereas the ANPRM suggested reestablishing a government-to-government relationship between the US and Native Hawaiian community would advance reconciliation, the NPRM deployed the ANPRM’s legal history to naturalize the federal government’s authority over a special trust relation with Native Hawaiians and to normalize the federal and state governments’ territorial jurisdiction over Hawai‘i. Approximately one year after publishing the NPRM, the DOI issued an administrative rule on October 14, 2016 to facilitate federal recognition of Kānaka ‘Ōiwi. “The Final rule,” it begins, “sets forth an administrative procedure and criteria that the Secretary would use if the Native Hawaiian community forms a unified government that then seeks a formal government-to-government relationship with the United States.”³²⁵ As the Final Rule is operative presently, the choice is either to seek federal recognition of a NHGE or maintain the juridical status quo of Congress’ plenary power through an existing special trust relationship. In cases like this, the exercise of federal law upon Indigenous people purports to provide a liberal democratic freedom of choice, while deceitfully working in

³²⁵ Office of the Secretary, Department of the Interior, Final Rule, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 1090-AB05,” *Federal Register* 81, no. 199 (October 14, 2016): 71278.

practice to fortify the disciplinary and regulatory jaws of the settler-state's vice grip. By interrogating the legal mechanisms, logical extensions, and theoretical models imbued into the Final Rule, I suggest that the federal government's assertions of sovereignty are precarious and in disorder. Looking once more at opposing mo'olelo in oral testimony from public meetings in 2014, I track how Kānaka Maoli refusal of federal recognition brilliantly exposed the incoherence and disarray of US settler sovereignty upon the 'āina of Hawai'i. To that end, this section explicates the biopolitical animus aimed at Kānaka Maoli for geopolitical settlement of Hawai'i and also the ways in which Kānaka Maoli disrupt the sovereign nucleus of US settler colonial biopower.

The biopolitical and geopolitical schematics within the US settler-state's offer of recognition to Kānaka 'Ōiwi employ mechanisms, logics, and models that hinge upon colonial techniques of race, gender, sexuality, and class. In the Final Rule, the rhetorical maneuver that previously in the ANPRM and NPRM marked Kānaka 'Ōiwi as "analogous to but separate from" Native Americans transforms into a discursive formation. By comparing the programs and services provided to Native Hawaiians as analogous to but separate from those bestowed onto Indians in federally recognized tribes, the administrative rule regulates Kānaka Maoli as an Indigenous group akin to Native Americans, which stands-in for a racialized categorization of populations subject to US settler-state sovereignty. Referencing Congress' plenary power over Indian affairs and its support through case law, the DOI suggests the Final Rule flows from and enforces Indian law and policy. For example, the rule cites the Federally Recognized Indian Tribe List Act of 1994, which recognized Congress' power to acknowledge Indian tribes via legislation and delegated such authority to the DOI, to elaborate that because

Congressional statutes already acknowledge a special trust relationship with Native Hawaiians that “the language of the List Act’s definition of the term ‘Indian tribe’ is broad and encompasses the Native Hawaiian community.”³²⁶ Here, Native Hawaiians are considered Indians and, as a political community, constitute a tribe. Discussing US Supreme Court decisions in *Johnson v. M’Intosh* (1823), *Cherokee v. Georgia* (1831), and *Worcester v. Georgia* (1832), Barker shows the US settler-state “asserted that tribes were weaker—uncivilized races living as barbarians in a permanent state of nature.”³²⁷ The Final Rule reifies, as Barker puts it, US national narrations that racialize Indigenous people as uncivilized primitives, immoral and perverse heathens, backwards barbarians, merciless savages, domestic dependents, and childlike and immature wards—racializing monikers of inferiority that are concomitantly gendered and sexualized—that are tropes of white supremacist and heteropatriarchal settler colonialism.

Incorporating Native Hawaiians under federal law as an Indigenous population similar to those of Indian tribes transfers a *separate* process of racialization for *analogous* colonial objectives. This is the colonial order of things undergirding the DOI’s discourse of analogous yet separate. But, the rule of recognition that the Native Hawaiian community constitutes an Indian tribe is limited through logics of land. The federal government is recreating Native Hawaiians as Indians without land. Institutionalizing a dangerous archetype for colonial dispossession in federal Indian law and policy, the rule seeks to recognize and absorb new tribes that are without jurisdiction over territory and resources, which the settler-state and its settler citizenry can then, in turn, call its own.

³²⁶ Ibid., 71286.

³²⁷ Barker, *Native Acts*, 32.

For example, the Final Rule interprets the Indian Reorganization Act of 1934, delimiting the geographic scope for definitions of “Indian,” to suggest that “Indian land” cannot be taken into trust for a NHGE. It similarly interprets the Indian Gaming Regulatory Act of 1988 to declare that the NHGE would not be eligible to conduct gaming due to definitions of “Indian lands” for “Indian tribes.” The rule states that the Gaming Act “was enacted to balance the interest of states and tribes and to provide a framework for regulating gaming on ‘Indian lands.’ There are no such lands in Hawaii.”³²⁸ Here, Native Hawaiians are considered Indians but without Indian land, effectively dispossessing Kānaka Maoli of land in Hawai‘i. Other measures like the Indian Child Welfare Act and Violence Against Women Act would also not apply since “Congress provides a parallel set of benefits to Native Hawaiians within the framework of legislation that also provides programs to other Native groups.”³²⁹ An inclusive biopolitical exclusion of Native Hawaiians running parallel to, but premised on, the peculiar juridical status of Native Americans, these legal instruments pivot upon the logical extension of settler-state territoriality. “*Because there is no Indian country in Hawaii,*” the Final Rule explains, “upon reestablishing a government-to-government relationship with the United States, *the Native Hawaiian Governing Entity would not have territorial jurisdiction.*”³³⁰ It is as Barker says, “The rub as it were, for Native peoples, is that they are only recognized as Native within the legal terms and social conditions of racialized discourses that serve the national interest of the United States in maintaining colonial and imperial relations with

³²⁸ Department of the Interior, Final Rule, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 1090-AB05, 71306.

³²⁹ *Ibid.*, 71307.

³³⁰ *Ibid.*, emphasis mine.

Native peoples.”³³¹ The biopolitical management of Kānaka ‘Ōiwi as a racialized, gendered, and sexualized population of Native Hawaiians alike Native Americans produces a discursive formation, which creates rules and limits according to “analogous but separate” and “parallel” legal logics that ultimately attempt to shore up the geopower of US settler colonial biopolitics. Testing and settling the biopolitical status of Kānaka Maoli not only functions to settle the geopolitical status of Hawai‘i but, concomitantly, fashions a fresh liberal paradigm for federal Indian law and policy that desires to recognize and incorporate tribes without land and resources or territorial jurisdiction over them.

In testimony against the DOI’s proposal for the Final Rule, Kānaka Maoli identified and disrupted the biopolitical and geopolitical calculations within settler-state recognition. In Kahului, Kaleikoa Ka‘eo pronounced, “No consent, never. No, Department of the Interior. No treaty, never. No, Department of Interior. No cession of our citizenship. No, Department of Interior. No justice for our people for 120 years. No to the Department of Interior. No lawful authority to sit upon our people and step upon our necks. No to the Department of Interior.” His words illustrate how the US settler-state exercises heteropatriarchal colonial power by disregarding Kanaka Maoli consent. Furthermore, Ka‘eo extended consent’s revenge to assert that a treaty of annexation was never signed, Hawaiian national citizenship has never been resigned, and federal government thus does not have juridical authority to regulate the lāhui and discipline Kānaka Maoli. All of this was to say no to the DOI and its rule for recognition. On Moloka‘i, these sentiments were echoed. “I am not American, I am not American,” Guy

³³¹ Barker, *Native Acts*, 6.

Hanohano Naehu declared there, “[a]nd shame on you guys for perpetrating the illegality. Shame on you guys for perpetrating the fraud.” Building on Ka‘eo’s assertion of Hawaiian citizenship, Naehu stated plainly that he is not American, that Kānaka ‘Ōiwi are not US citizens and the rules of recognition perpetuate a fraudulent construction that Kānaka ‘Ōiwi are Americans because of a special trust relationship stemming from an unlawful and illegal occupation of Hawai‘i. These mo‘olelo of opposition were resurgent refusals. They combined the rejection of recognition through Indigenous resurgence with a refusal of US settler-state sovereignty. “Indigenous peoples’ individual and collective expressions of anger and resentment,” Coulthard writes, “can help prompt the very forms of self-affirmative praxis that generate rehabilitated Indigenous subjectivities and decolonized forms of life in ways that the combined politics of recognition and reconciliation has so far proven itself incapable of doing.”³³² This archive of Kanaka Maoli refusal represents a collective self-affirmation that celebrates the polity of the Indigenous and seeks decolonization and deoccupation, in the same step. On the island of Maui, Tisha-Marie Beattie responded to questions from the DOI: “Your answer from me is no.” But she clarified her answer by saying, “You cannot give me back something I never gave up...take your thing you wanna give us, throw ‘em in the trash.” Such mo‘olelo combatted federal recognition by detecting and challenging how the settler-state was attempting to solidify its geopower through biopolitics. National and territorial sovereignty could not be given back to Kānaka Maoli because it has never been relinquished, which the ANPRM, NPRM, and Final Rule noticeably admit in their reliance on the Apology Resolution to advance reconciliation. The offer of recognition is

³³² Coulthard, *Red Skin, White Masks*, 109.

trash, not a gift or even something recyclable but indeed a thing to be thrown away. “We don’t want it,” Beattie concluded, “[w]e sovereign.”

The potent assertions of Hawaiian sovereignties, performing a Kanaka ‘Ōiwi politics of ea, illuminate a settler state of exception. Rather than amending the process for formal acknowledgement in the CFR, the executive rule manufactured a new administrative procedure to facilitate federal recognition through reestablishing a government-to-government relationship with Native Hawaiians. Codified as Part 50 of Title 43 in the CFR, the Final Rule made an exception to the geographic limitation barring Kānaka Maoli from acknowledgement under Part 83 of Title 25 in the CFR. In doing so, the Final Rule is a US settler state of exception. The executive, supported by the legislative and judiciary branches of American democratic governance, has declared an exception to existing legal frameworks of formal acknowledgement to create new law for federal recognition that precariously attempts to signify sovereign power through the extension of law in its suspension. The (sovereign) rulemaking includes Native Hawaiians (biopolitically) within existing regulations of Indian affairs only insofar as they are excluded from territorial authority and jurisdiction (geopolitically). Nevertheless, Rifkin suggests that Indigenous claims of sovereignty can unmask and radically antagonize the emptiness and incoherence of settler sovereignty as it anxiously attempts to be stabilized through settler states of exception.³³³ Kānaka Maoli did just this. On Kaua‘i island, Ka‘iulani Lovell told the DOI, “We’re not part of your state. We’re not here to create something where we’re working together. We don’t need to be recognized by you. We know who we are.” By articulating ‘a‘ole to the executive rulemaking, and

³³³ Rifkin, “Indigenizing Agamben.”

practicing and performing ea, Kānaka Maoli exposed the offer of federal recognition to be a surreptitious sham of settler sovereignty, attempting to cohere US geopower in Hawai‘i by manufacturing and resolving the anomalous biopolitical status of Native Hawaiians. Kānaka Maoli are not a part of the US settler-state. Kānaka Maoli are not wishing to collaborate with the federal government. And Kānaka Maoli do not need to be recognized by the US settler-state because we know who we are. Maintaining kuleana to the ‘āina, this was a gift that presented responsibility to the US settler-state and its settlers in Hawai‘i. It is time they start listening. As a generous gift, the public testimony disrupted the notices of settlement and rules of recognition to overturn the settler sovereignty fueled by settler colonial capital.

I want to wrap up with a theoretical model in the administrative rule, which vividly expresses the incoherence and disorder of US settler sovereignty in Hawai‘i and also how the rule of recognition continues to be operational in the machinery of US settler colonial biopolitics. The Final Rule institutes an administrative procedure to reestablish a government-to-government relationship with Native Hawaiians and, in doing so, generated criteria for the reorganization process. One pivotal criterion is community support for the reorganization of a Native Hawaiian government. Despite DOI claims to non-interference, reorganization must meet criteria outlined in the Final Rule for ratifying a constitutional document in order to follow rules for federal recognition. “A Native Hawaiian government,” the rule stipulates, “must have a constitution or other governing document ratified both by a majority vote of Native Hawaiians and by a majority vote of those Native Hawaiians who qualify as HHCA

Native Hawaiians.”³³⁴ What the DOI means by distinguishing “Native Hawaiians” from “HHCA Native Hawaiians” goes back to definitions in the Hawaiian Homes Commission Act of 1920, which suggest a “native Hawaiian” possesses and demonstrates 50 percent blood ancestry to be eligible for rehabilitative homesteading.³³⁵ Kānaka Maoli that do so are legally classified native Hawaiians and known also as HHCA Native Hawaiians. The Final Rule requires that reorganization must have a majority of affirmative votes from a sufficiently large turnout in the ratification of a constitutional document from both Native Hawaiian *and* native Hawaiians. This reifies racialized class distinctions of Kānaka ‘Ōiwi, manufactured historically through the blood quantum policy of the HHCA, that continue to fragment and divide the lāhui around imposed notions of cultural authenticity. The rule turns on specific threshold criteria in a ratification referendum by Native and native Hawaiians. While convoluted, it is structured like this. The Secretary of the DOI *will only assess* an application to reestablish a government-to-government relationship if the NHGE meets a minimum threshold for broad-based community support. The minimum threshold for broad-based community support is 30,000 affirmative votes from Native Hawaiians and 9,000 affirmative votes from native Hawaiians. Another threshold *creates a presumption* of broad-based community support. If affirmative votes cast by Native Hawaiians exceed 50,000 and affirmative votes cast by native Hawaiians exceed 15,000 then the Secretary “would be well justified in finding broad-based community

³³⁴ Department of the Interior, Final Rule, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 1090-AB05, 71287.

³³⁵ See Kauanui, *Hawaiian Blood*.

support.”³³⁶ The model to determine threshold criteria for broad-based community support, however, is warped and unstable to say the least.

The DOI’s modeling of thresholds for broad-based community support as part of broad-based community participation is self-referential and artificially low. This makes the process for recognizing and incorporating Kānaka Maoli without land or territorial authority dangerously easy. The Final Rule outlines a four-fold methodology for participation and support thresholds. First, the DOI reviewed Native Hawaiian voter turnout in national and state elections from 1988 to 2014 to measure broad-based electoral participation in the State of Hawai‘i. Second, based on that data, the DOI predicts that “a Native Hawaiian ratification referendum would have a turnout somewhere in the range between 60,000 and 100,000” and “turnout within this range demonstrates broad-based participation.”³³⁷ This range is modeled on voter data from 1998 that shows 65,000 Kānaka Maoli voted out of 100,000 whom were registered voters. The DOI claims that the predicted range reflects an accurate measurement of broad-based electoral participation in the State of Hawai‘i. Third, the DOI adjusted estimates to account for the Native Hawaiian population increasing over time and Kānaka Maoli that are located outside the State of Hawai‘i. Adjusting for an increasing growth rate and high and low percentages of Native Hawaiian voters in 1988 and 1999, respectively, the Final Rule estimates that 52,300 to 81,913 of in-state Native Hawaiians will likely turnout to vote. The DOI adjusted this range upwards by 20 percent to proportionally include out-of-state Native Hawaiian representation, which resulted in a

³³⁶ Ibid.

³³⁷ Ibid., 71288

slightly larger estimate of 62,760 to 98,296 for both in- and out-of-state Native Hawaiians that will likely turnout to vote. This estimate fit and confirmed the initial prediction that 60,000 to 100,000 Native Hawaiians will likely turnout to vote in a ratification referendum. Fourth, the DOI predicts that 18,000 to 30,000 of native Hawaiians will likely turnout to vote in a ratification referendum because “HHCA Native Hawaiian adults are approximately 30 percent of the Native Hawaiian adult population,”³³⁸ and this range represents broad-based community participation from native Hawaiians. In sum, the *minimum number* of affirmative votes required to demonstrate broad-based community support by native Hawaiians is 9,000 and by Native Hawaiians is 30,000, whereas a *presumption* of broad-based community support requires affirmative votes by native Hawaiians that exceed 15,000 (as a simple majority of 30,000) and by Native Hawaiians that exceed 50,000 (as a simple majority of 100,000). But the modeling for this threshold criteria is terribly self-referential. Predictions of Native Hawaiian voter turnout for a ratification referendum are predicated on voter turnout data from national and state elections in the State of Hawai‘i. Using this data is biased toward, and skewed by, settler-state elections. Yet, the DOI analyzed this dataset to predict figures for Kanaka ‘Ōiwi elections. The model is a closed loop because the DOI refers to and uses its own data from US settler-state elections as a way to determine thresholds for broad-based community participation and support by Kānaka Maoli in the reorganization of a Native Hawaiian government. If the ratification referendum for a NHGE *is not a settler-state election* then it is shrewdly self-referential by generating

³³⁸ Ibid., 71287.

threshold criteria for it *based on data from settler-state elections*. This self-referentiality also fosters artificially low threshold ranges. For example, the adjustment to proportionally include out-of-state Native Hawaiian representation only increases the estimated range for broad-based community participation from 52,300-81,913 to 62,760-98,296. This adjustment accounts for approximately 10,000 to 16,000 additional Native Hawaiian voters from out-of-state, while about 500,000 Kānaka ʻŌiwi are displaced from Hawaiʻi and out-of-state, as the Final Rule describes, representing about half of the entire population of Kānaka ʻŌiwi. Digging into the model, this paltry adjustment is premised on proportional representation data from elections organized by the State of Hawaiʻi. The self-referential analysis of US settler-state voter turnout and election data keeps thresholds for broad-based Native Hawaiian participation and support artificially low. Unambiguously, this designs the administrative procedure for reestablishing a government-to-government relationship *to be significantly easier* for the NHGE to satisfy criteria for the ratification referendum and follow rules for reorganization so that the Secretary of the DOI will *more likely approve* an application for federal recognition. The settler-state is stacking the cards in its own favor. I contend that the self-referentiality and artificially low thresholds vividly illustrate the federal government's anxiety over settling the legal status of Kānaka Maoli. However, this reveals the federal government's precarious and disorderly attempts to manufacture US settler sovereignty in Hawaiʻi. But the rules of recognition persist, and they remain operative still. In the next chapter, I explore how the State of Hawaiʻi strategically coordinated a state-determined process for reorganizing a Native Hawaiian government that sought to obey the rule of recognition and its colonial dispossession.

Chapter 4

Geontologies of Aloha ‘Āina

After meeting for just twenty days, delegates of a constitutional convention held in Maunawili, O‘ahu drafted and passed a constitution to create a Native Hawaiian government. On February 26, 2016, the convention organized by Na‘i Aupuni, a private non-profit organization funded by OHA, adopted the Constitution of the Native Hawaiian Nation. The preamble of the Constitution of the Native Hawaiian Nation states:

We, the indigenous peoples of Hawai‘i, descendants of our ancestral lands from time immemorial, share a common national identity, culture, language, traditions, history, and ancestry. *We are a people who Aloha Akua, Aloha ‘Āina, and Aloha each other.* We mālama all generations, from keiki to kupuna, including those who have passed on and those yet to come. We mālama our ‘Āina and affirm our ancestral rights and Kuleana to all lands, waters, and resources of our islands and surrounding seas. We are united in our desire to cultivate the full expression of our traditions, customs, innovations, and beliefs of our living culture, while fostering the revitalization of ‘Ōlelo Hawai‘i, for we are a Nation that seeks Pono.

Honoring all those who have steadfastly upheld the self-determination of our people against adversity and injustice, we join together to affirm a government of, by, and for Native Hawaiian people to perpetuate a Pono government and promote the well-being of our people and the ‘Āina that sustains us. We reaffirm the National Sovereignty of the Nation. *We reserve all rights to Sovereignty and Self-determination, including the pursuit of independence. Our highest aspirations are set upon the promise of our unity and this Constitution.*

The preamble presents a circuitous stance. It twists the concept of aloha into aspirations for sovereignty, self-determination, independence, and unity that the Constitution of the Native Hawaiian Nation appears to represent and promises to deliver. Aloha for the akua, for the ‘āina, and for each other becomes a suspicious smokescreen for the new Native Hawaiian Nation. With this in mind, there are some key questions that I address in this chapter: How has the US settler-state controlled and narrowed nation-building for

Kānaka Maoli?; In what ways has the State of Hawai‘i fashioned a process to reorganize a Native Hawaiian government for federal recognition?; How have Kānaka Maoli mobilized aloha ‘āina to reject nation-building linked to federal recognition and engage alternative modes of self-governance?

The State of Hawai‘i’s legal process for Native Hawaiian nation-building is entangled with the executive procedures to federally recognize Native Hawaiians. The Constitution of the Native Hawaiian Nation was manufactured four months after the DOI published its NPRM and approximately eight months before the DOI issued its Final Rule, which generated an administrative procedure for federally recognizing a reorganized Native Hawaiian Governing Entity (NHGE). This timing is no coincidence. The ANPRM and NPRM, in 2014 and 2015 respectively, suggested that reorganization of a NHGE depends upon crafting a governing document. In light of this, OHA—a State of Hawai‘i agency pursuant to statutory laws on Native Hawaiian self-determination—gave birth to Na‘i Aupuni. Na‘i Aupuni sought to design a governing document in a constitutional convention called the ‘Aha, which means assembly, gathering, and meeting.³³⁹ After the ‘Aha adopted a constitution in February of 2016, the DOI published its Final Rule in October the same year and then outlined criteria for recognizing a reorganized NHGE. One major criterion is that a NHGE, like the newly created Native Hawaiian Nation, convene a ratification referendum and procure broad-based community participation and support for its constitution. Indeed, the Constitution of the Native Hawaiian Nation is not fortuitous. Familiar bedfellows, the federal government’s

³³⁹ I use the capitalized “‘Aha” to refer to Na‘i Aupuni’s constitutional convention, which the nonprofit organization called the ‘Aha. However, ‘aha, without capitalization, is also used to describe the ‘Aha Aloha ‘Āina.

administrative rule to reestablish a government-to-government relationship with Native Hawaiians is intimately attached to the State of Hawai‘i’s legal processes for facilitating Native Hawaiian self-governance. This chapter interrogates the latter and how it has attempted to constitute Kanaka Maoli consent for federal recognition and settler sovereignty.

Seeing through the sham, Kanaka Maoli activists protested the ‘Aha. Although some Kānaka Maoli participated as delegates in Na‘i Aupuni’s ‘Aha to reorganize a Native Hawaiian government, many Kānaka Maoli opposed this method of nation-building since it was influenced by US federal and state governments and barred Kānaka Maoli whom were not delegates. Despite the fact that all participating delegates were Kanaka Maoli, the process *was not structurally determined* by Kānaka Maoli and *excluded a majority* of Kānaka Maoli. During the ‘Aha, Kanaka Maoli activists disturbed the proceedings of the constitutional convention. Some blockaded delegates from entering the premise where the convention took place. Others attempted to enter the meeting to participate without designation as a delegate, whereas other activists attempted to enter the meeting to deliberately interrupt it. The security team hired by Na‘i Aupuni called police and Kanaka ‘Ōiwi activists were arrested for trespassing on private property. Considering that the Constitution of the Native Hawaiian Nation’s preamble declares that “[w]e are a people who Aloha Akua, Aloha ‘Āina, and *Aloha each other,*” police intervention was counterintuitive and appalling. It is difficult to imagine how policing, criminalizing, and incarcerating Kānaka Maoli exercised sincere love and care for each other. In response, several of the same activists organized an alternative convention. They called it ‘Aha Aloha ‘Āina—an ‘aha for aloha of ‘āina. This chapter

looks at how some Kānaka ʻŌiwi participated in constituting consent and how others challenged the reorganization process and contested this coercive nation-building by creating an alternate ʻaha centered on aloha ʻāina, a genuine love and care of the ʻāina in Hawaiʻi.

In this chapter, I examine two projects for Kanaka ʻŌiwi nation-building: Naʻi Aupuni and ʻAha Aloha ʻĀina. In the first section of this chapter, I discuss aloha ʻāina as an approach to interpret Indigenous nation-building in Hawaiʻi. This section explores the development of aloha ʻāina as an ontology, discourse, and ideology. Aloha ʻāina does not simply convey aloha for ʻāina, it is a more complex geontology, or geographic way of being, that offers a framework for reading the practices and performances of ea within nation-building. In the second section, I investigate the State of Hawaiʻi's legal mechanisms for Native Hawaiian self-determination and self-governance and how OHA activated Naʻi Aupuni through them. Analyzing state legislation and law, nonprofit bylaws and contractual agreements, and a federal lawsuit, I show that Naʻi Aupuni and its ʻAha disguised state-determined procedures for nation-building under a veneer of Native Hawaiian self-determination and self-governance. This project for nation-building attempts to constitute Kanaka ʻŌiwi consent for federal recognition as a way of acquiescing to US settler sovereignty and abandoning responsibility to ʻāina. In the third section, I track the formation of ʻAha Aloha ʻĀina, an alternative convention for Kanaka ʻŌiwi nation-building. Looking at the direct-action activism against Naʻi Aupuni that gave birth to ʻAha Aloha ʻĀina, and governing documents of ʻAha Aloha ʻĀina, I assert that state-determined nation-building was countered through aloha ʻāina. This reimagined and actualized Kanaka Maoli sovereignty beyond the settler-state and its legal edifice.

The chapter concludes with a discussion of how aloha ‘āina offers a regenerative refusal that rejects nation-building for federal recognition while rejuvenating Indigenous forms of life and governance in Hawai‘i.

In Chapter 3, I posit that Na‘i Aupuni and the ‘Aha were state-determined operations for Native Hawaiian nation-building tied to federal recognition, which attempted to constitute Kanaka Maoli consent for federal recognition and US settler sovereignty in ways that abandoned responsibility to the ‘āina of Hawai‘i. Although this state-determined form of Native Hawaiian nation-building produced a governing document that can be used to apply for federal recognition, the ‘Aha Aloha ‘Āina, an alternative ‘aha organized by Kanaka Maoli activists, articulated aloha ‘āina as a Kanaka ‘Ōiwi geontology for Indigenous governance in Hawai‘i that exceeded the settler-state and its legal apparatuses.

Aloha ‘Āina

In this section, I discuss aloha ‘āina in order to use it as an approach for analyzing Indigenous nation-building in Hawai‘i. I begin by looking at research on aloha ‘āina from the field of Hawaiian Studies. Because it is “a very old concept, to judge from the many sayings (perhaps thousands) illustrating deep love for the land,”³⁴⁰ aloha ‘āina expresses an ontology that indexes the relationship between Kānaka Maoli and Hawai‘i. As a multifarious concept, it represents the cosmological worldview and genealogical kinship that connects Kānaka Maoli to the ‘āina of Hawai‘i, and vice versa. I then map out how aloha ‘āina was asserted within political struggles over Hawaiian sovereignties in the late 19th century. Shifting focus from its ontological register to development as a

³⁴⁰ Pukui and Elbert, *Hawaiian Dictionary*, 21.

discourse and ideology, I chart the multiple meanings of aloha ‘āina. It has been conveyed as a philosophical standpoint and embodied practice of aloha for ‘āina, a love for land. But it also suggests affection for country. Contributing to scholarship that utilizes aloha ‘āina yet delineates the study of ‘āina from Kānaka Maoli, I suggest that aloha ‘āina is a geontology—a Kanaka ‘Ōiwi way of being of Hawai‘i—that provides a potent orientation for examining contemporary Indigenous nation-building upon the ‘āina of Hawai‘i.

Aloha ‘āina is a concept explored in Hawaiian Studies that represents the nature of being Kanaka Maoli. Kānaka Maoli have come to be through the ‘āina of Hawai‘i and the entwined ways of being through one another. Silva writes, “Aloha ‘āina is a complex concept that includes recognizing that we are an integral part of the ‘āina and the ‘āina is an integral part of us.”³⁴¹ Goodyear-Ka‘ōpua indicates, “Many ‘Ōiwi assert that we are not only related to the land but also a part of what is referenced when one talks about ‘āina.”³⁴² Kānaka ‘Ōiwi come from the land and are part of it. While aloha ‘āina tends to be posited as a feeling of love for land, its particular meaning emerges from the cosmological and genealogical structure of that feeling. That structure is an expansive kinship system that ties Kānaka Maoli (human subjects) to ‘āina (more-than-human subjects) as familial relatives. There are myriad mo‘olelo, mo‘okū‘auhau, and mele ko‘ihonua that detail this structure and system. The Kumulipo is one of the most important. It establishes the fundamental ontology of aloha ‘āina. Meaning the source of darkness, the Kumulipo is a mele ko‘ihonua and cosmogenic chant that contains 2,102

³⁴¹ Silva, *The Power of the Steel-Tipped Pen*, 4.

³⁴² Goodyear-Ka‘ōpua, *The Seeds We Planted*, 33.

lines divided into sixteen sections called wā (epochs).³⁴³ The first seven wā occur in pō (darkness) and the last nine wā take place in ao (daylight). Pō is the time period belonging to the akua, whereas ao is the era of Kānaka. For instance, in the twelfth wā, Papahānaumoku and Wākea, progenitors of the Hawaiian islands, give birth to a daughter named Ho‘ohōkūokalani. Wākea later procreates with Ho‘ohōkūokalani and she conceives a stillborn child, Hāloanaka. Hāloanaka is buried in the ‘āina and the first kalo (taro) plant grows from that burial place. “The genealogical relationship between the Kānaka, kalo, and ‘āina (from which kalo grows) is revealed in the historical account of Papa and Wākea and their descendants,” Oliveira stresses.³⁴⁴ When Wākea and Ho‘ohōkūokalani give birth to a second child, the child is given the name Hāloa to honor Hāloanaka. As the younger sibling of Hāloanaka and kalo, Hāloa becomes the first Kanaka Maoli. Silva argues, “This story of Hāloa is often invoked to symbolize the Kanaka belief in a familial relationship to the land and opposition to ownership over land.”³⁴⁵ Kalo and the ‘āina it grows from are “owed filial love, loyalty, and care.”³⁴⁶ Aloha of ‘āina, a living ancestor, is necessary to sustain balance in this kinship system that does not hold ‘āina as private property, according to settler capital, but embraces the relative in ‘āina.

The Kumulipo also illustrates how sovereignty is exercised through aloha ‘āina. “The *Kumulipo*,” Silva observes, “is a cosmological chant/prayer that describes the genesis of living things on the earth, including humankind, and links them to the

³⁴³ Silva, *Aloha Betrayed*, 99.

³⁴⁴ Oliveira, *Ancestral Places*, 5.

³⁴⁵ Silva, *Aloha Betrayed*, 103.

³⁴⁶ *Ibid.*, 101.

genealogy of Lonoikamakahiki, which then leads directly to Kalākaua.”³⁴⁷ Predating the arrival of haole in Hawai‘i by hundreds of years, it was published for the first time in 1889 by Kalākaua. He referred to it as He Pule Hoolaa Alii (A Prayer to Consecrate a Ruler). The Kumulipo was published in the late 19th century in Hawaiian-language newspapers for a few reasons: to disseminate the origin of Kānaka Maoli and Hawai‘i; to celebrate the richness of ‘Ōiwi culture, language, and Indigeneity; to upend haole allegations of cultural erosion and national disenfranchisement; to affirm lineage to the more-than-human world and its divine power; to legitimate the national sovereignty of the Hawaiian Kingdom. Publishing the Kumulipo was especially necessary for Kalākaua to ensure that the lāhui endured in pono and balance through a new genealogical succession, since Kamehameha’s royal genealogical line ended. This reflected Kalākaua’s concern with Kanaka Maoli depopulation,³⁴⁸ and his campaign for revitalize the lāhui under the slogan ho‘oulu lāhui discussed in Chapter 1. In this sense, the Kumulipo is a cultural text with vast political importance. Silva writes, “Gods, plants, animals, and even stars appear in the *Kumulipo*. The presence of all of these within the genealogy of human beings expresses belief in the familial relationship of Kanaka Maoli to all the other life forms in their environment.”³⁴⁹ It is a “history of interrelatedness—all plants, animals, kānaka, and akua are genealogical connected.”³⁵⁰ The nature of being Kanaka ‘Ōiwi and the ‘āina are one in the same. “This genealogical world view,” Silva contends, “gives rise to the particular form that love of nation takes in Hawai‘i, which is

³⁴⁷ Ibid., 97.

³⁴⁸ Ibid., 101.

³⁴⁹ Ibid., 102.

³⁵⁰ Kapā‘anaokalāoikeola Oliveira, *Ancestral Places*, 4.

aloha ‘āina.”³⁵¹ As the Kumulipo and Kalākaua’s use of it make clear, aloha ‘āina is premised upon the co-constitutive nature of Kānaka ‘Ōiwi and the ‘āina, and this familial, interrelated kinship animates ea. Indeed, aloha ‘āina is an act of ea.³⁵²

In the late 19th century, aloha ‘āina exploded as a discourse. Although a cultural concept that emerges from a much older ontology, it was strategically cultivated as an ideology in the political struggle of this era. “Aloha ‘āina expresses an unswerving dedication to the health of the natural world,” Goodyear-Ka‘ōpua says, “and a staunch commitment to political autonomy, as both are integral to a healthy existence.”³⁵³ The maturation of aloha ‘āina into an ideology for self-rule, independence, and sovereignty reveals an explicit concern with nation-building. This past helps to understand our present. It assists me in analyzing contemporary projects for Indigenous nation-building in Hawai‘i. At the end of the 19th century, aloha ‘āina was “the cornerstone of resistance” against the illegal overthrow of the Hawaiian Kingdom’s government and illegal annexation of Hawai‘i.³⁵⁴ Silva states, “It expressed the desire that maka‘āinana and ali‘i shared for self-rule as opposed to rule by the colonial oligarchy of settlers or the military rule of the United States.”³⁵⁵ Self-rule became synonymous with aloha ‘āina. Aloha of ‘āina reshuffled into desiring and engaging in practices to protect Hawai‘i from the rule, control, and force of others. It desired ea for Kānaka Maoli and the Hawaiian Kingdom as well as the ‘āina. This ideology arose from the revolutionary work of ‘Ōiwi political

³⁵¹ Silva, *Aloha Betrayed*, 102.

³⁵² See Goodyear-Ka‘ōpua, introduction to *A Nation Rising*, 6.

³⁵³ Goodyear-Ka‘ōpua, *The Seeds We Planted*, 32.

³⁵⁴ Silva, *Aloha Betrayed*, 11.

³⁵⁵ Ibid.

organizations, newspapers, and intellectuals that advocated for the interconnected sovereignty of the Kanaka Maoli, Hawaiian Kingdom, and Hawai‘i.

The discursive proliferation of an aloha ‘āina ideology occurred through diverse opposition to the illicit overthrow of the Hawaiian Kingdom’s government. Under the threat of violence by US military forces and haole businessmen, many of whom were missionary sons, Kalākaua authorized the Bayonet Constitution in 1887. The Bayonet Constitution devastated the crown powers of the Mō‘ī. In particular, it transferred political power to a haole oligarchy that sought to alter Hawaiian Kingdom law, by controlling the legislature and suppressing the crown’s cabinet, to sell sugar in US markets without being taxed. This effectively manufactured an image that the Hawaiian Kingdom approved increasing wealth for haole planters.³⁵⁶ To deepen profits on sugar and concoct consent for settler capital, representation in the legislature was restricted based on race and class so that “wealthy white foreigners could vote and working-class maka‘āinana and Asian immigrants could not.”³⁵⁷ Increasingly pernicious, the new constitution contained no article that guaranteed the inviolability of the Hawaiian Kingdom’s crown lands. The rapacity of capital gave way to Hawaiian dispossession. Massive opposition by Kānaka ‘Ōiwi broke out. Hui Kālai‘āina, one of the first political organization of Kānaka Maoli in this era, formed to protect Kalākaua and the Hawaiian Kingdom’s monarchy, amend the Bayonet Constitution, and overturn racialized class restrictions in the legislature. When Hui Kālai‘āina organized against a US free-trade agreement called the Reciprocity Treaty, which Osorio characterizes as “a fight over the

³⁵⁶ Osorio, *Dismembering the Lāhui*, 167.

³⁵⁷ Silva, *Aloha Betrayed*, 126-127.

nation's independence,"³⁵⁸ they allied with the Mechanics' and Workingmen's Political Protective Union. Together, they formed the National Reform Party and sought to elect representatives to the House of Nobles and House of Representatives. The coalition succeeded in electing candidates that could advocate for independence and labor issues, such as my great-great grandfather C.B. Maile. Perhaps anti-colonialism and anti-capitalism runs in my family. In 1892, C.B. Maile became a member of the House of Nobles and participated in the last legislative session of the Hawaiian Kingdom, which ended three days before the haole oligarchy's coup in 1893. The Bayonet Constitution remained unfazed, but members of Hui Kālai'āina and the National Reform Party persevered. Some went on to found another political group called Hui Aloha 'Āina, an association for aloha of 'āina.

Hui Aloha 'Āina surfaced to protest the dethroning of Mō'i Lili'uokalani. Proceeding her brother Kalākaua as the Hawaiian Kingdom's Mō'i and monarch, Lili'uokalani attempted to promulgate a new constitution in 1893 to secure self-rule in Hawai'i as the sovereign wahine head of state. For the haole oligarchy that forced Kalākaua to adopt the Bayonet Constitution, Lili'uokalani was "a dangerous woman."³⁵⁹ Unwilling to support her cause, they usurped Lili'uokalani's crown and government. On January 17, 1893, the oligarchy stormed the palace of the Hawaiian Kingdom, accompanied by American marines from the USS Boston, and proclaimed themselves the Provisional Government. It was the beginning stage in US military occupation of Hawai'i. But Lili'uokalani protested vehemently as did the lāhui. Hui Aloha 'Āina

³⁵⁸ Osorio, *Dismembering the Lāhui*, 168.

³⁵⁹ Daws, *Shoal of Time*, 266.

formed in this context and created a sister branch, Hui Aloha ‘Āina o Nā Wāhine. Joseph Nāwahī became president of Hui Aloha ‘Āina and Abigail Kuaihelani Maipinepine Campbell became president of Hui Aloha ‘Āina o Nā Wāhine. The two, as directors of associations centered on aloha ‘āina, have been referred to as po‘e aloha ‘āina. Silva maintains, “Throughout the struggle Kanaka Maoli who worked to retain the sovereignty of their own nation called themselves ‘ka po‘e aloha ‘āina’ (the people who love the land).”³⁶⁰ More than talk of love for land, aloha ‘āina spawned into an ideology that hailed Kānaka ‘Ōiwi, and non-Kanaka Maoli Hawaiian citizens, to maintain national sovereignty of the Hawaiian Kingdom. When US President Cleveland turned away the Provisional Government’s proposed treaty to annex Hawai‘i, he dispatched commissioner James Blount to investigate the situation in the islands. Both branches of Hui Aloha ‘Āina provided Blount with evidence, illustrating opposition to the Provisional Government and support of Lili‘uokalani’s sovereign authority. A copy of Hui Aloha ‘Āina’s constitution was shared. It began with two articles:

Article I. The name of this association shall be the Hawaiian Patriotic League (Ka Hui Hawaii Aloha Aina).

Article 2. The object of this association is to preserve and maintain, by all legal and peaceful means and measures, the independent autonomy of the islands of Hawaii nei.³⁶¹

Translating “Ka Hui Hawaii Aloha Aina” into “Hawaiian Patriotic League” articulated aloha ‘āina as a nationalist ideology of patriotism for the Hawaiian Kingdom. However, the organization’s objective to “preserve and maintain...the independent autonomy of the islands of Hawai‘i” designates more. “Unlike the root words *nation* and *patriot*, which

³⁶⁰ Silva, *Aloha Betrayed*, 131.

³⁶¹ Ibid.

are both etymologically tied to European notions of family, tribe, and country that have historically been gendered male,” Goodyear-Ka‘ōpua claims, “*aloha ‘āina* does not connote a male-dominant familial structure.”³⁶² Hui Aloha ‘Āina sought to perpetuate the sovereignty of *the islands of Hawai‘i*. In doing so, aloha ‘āina exceeded dominant enunciations of patriotism, patriots, nationalism, and nation. The linguistic genealogy of it, instead, is based in ‘Ōiwi cosmology.³⁶³

Although Blount’s investigation assisted Cleveland in determining that the actions of the provisional government were unlawful, po‘e aloha ‘āina continued to resist the formation of a settler-state in Hawai‘i. In the “President’s Message Relating to the Hawaiian Islands” in the Blount Report, Cleveland suggested that Lili‘uokalani should be restored as the sovereign of the Hawaiian Kingdom. Lili‘uokalani trusted his position. But, as Silva laments, he betrayed her aloha.³⁶⁴ Cleveland deferred to Congress to resolve the situation and, more heinously, allowed US Minister Albert Willis on July 4, 1894 to recognize the Republic of Hawai‘i, which the Provisional Government created to consolidate juridical power and territorial control over the Hawaiian islands. The Provisional Government held a constitutional convention to elect officials for the Republic of Hawai‘i, requiring that voters sign an oath of loyalty and renounce the Hawaiian Kingdom. Kānaka Maoli refused to take the oath and did not participate in the constitutional convention. “Only about 4,000 men, most of foreign birth, signed the oath and voted in the election,” according to Silva.³⁶⁵ Hui Aloha ‘Āina boycotted and sent

³⁶² Goodyear-Ka‘ōpua, *The Seeds We Planted*, 33, original emphasis.

³⁶³ Silva, *Aloha Betrayed*, 130-131.

³⁶⁴ *Ibid.*, 170-172.

³⁶⁵ *Ibid.*, 136.

dissent to US Minister Willis. In a petition submitted to foreign ministers of the US, England, France, Germany, Portugal, and Japan, the women of Hui Aloha ‘Āina o Nā Wāhine decreed, “without even the courtesy of waiting for America’s final decision,” the Republic’s new constitution was “the most illiberal and despotic ever published in civilized countries.”³⁶⁶ On July 2, a large public meeting took place outside of ‘Iolani Palace, where the haole oligarchy had been occupying the Hawaiian Kingdom’s government building, “to express their disagreement with the republic’s formation, and to approve a resolution drafted by the officers of Hui Aloha ‘Āina to be submitted to the U.S. Minister.”³⁶⁷ The resolution exclaimed, “Ke kua kupaa loa nei ka Hui Hawaii Aloha Aina a me na Hui Aloha Aina e ae, a me na kupa aloha aina o ke Aupuni Hawaii...i ke kuahaua ia ana o kekahi Kumukanawai Hou i hana ia me ka ae ole ia me ka lawelawe pu ole hoi o ka Lehulehu. (The Hui Aloha Aina, and other patriotic leagues together with the loyal subjects of the Hawaiian Kingdom...do hereby most solemnly protest against the promulgation of a new Constitution formed without the consent and participation of the people.)”³⁶⁸ Whether through material culture, public testimony, petitions and resolutions, or direct action, Kānaka Maoli have expressed aloha ‘āina as a way to defend and enact ea. Articulations of aloha ‘āina by these political organizations produced forms of governance for building the lāhui that surpassed the nation-state and national state sovereignty.

During the Republic of Hawai‘i’s tenure, the language and force of aloha ‘āina intensified. When peaceful and diplomatic protest stymied, some po‘e aloha ‘āina

³⁶⁶ Ibid., 136-137.

³⁶⁷ Ibid., 137.

³⁶⁸ Ibid.

coordinated a takeover of the Republic's administration. In December of 1894, two leaders of Hui Aloha 'Āina, John Bush and Joseph Nāwahī, were arrested for planning an armed rebellion. But two other leaders, Samuel Nowlein and Robert Wilcox, continued in their absence. They received a shipment of arms, purchased from San Francisco, and unloaded and distributed it in Kāhala, O'ahu. On January 6, 1895, the Republic learned where the weapons were housed and sent Republic police forces there. A gunfight ensued. Wilcox and his po'e aloha 'āina retreated to Lē'ahi and then through Pālolo, Mānoa, Pauoa, and Nu'uano. Eventually, they surrendered and two hundred of them were imprisoned and fined, including C.B. Maile. Lili'uokalani was also implicated in the insurrection. "On January 16," Silva narrates, "The republic claimed that they found arms buried in Queen Lili'uokalani's garden at Washington Palace. In response the queen was arrested and held prisoner in a room at 'Iolani Palace."³⁶⁹ On January 24, Lili'uokalani abdicated her throne in exchange for the release of the arrested revolutionists. She remained imprisoned for eight months. After his release from prison, Nāwahī and his wife started a weekly newspaper named *Ke Aloha Aina*. According to Silva, "In this newspaper, Nāwahī wrote a series of articles expressing what aloha 'āina meant for the Kanaka Maoli."³⁷⁰ In a published essay, Nāwahī inquires, "O wai kou makuahine? O ka aina no! O wai kou kupunawahine? O ka aina no! (Who is your mother? The 'āina indeed! Who is your grandmother? The 'āina indeed!)"³⁷¹ Instead of calling upon Hawaiian national citizens of the Hawaiian Kingdom, Nāwahī directs his questions to Kānaka Maoli. His call and response represented the ontology that 'āina is both mother

³⁶⁹ Ibid., 139.

³⁷⁰ Ibid.

³⁷¹ Ibid., 140.

and grandmother of Kānaka ʻŌiwi. He goes on to write, “Alaila, o ke aloha i kou makuahine, kou aina, kou wahi i hanauia ai, oia ka mea e loihi ai na la, na makahiki o ke ola ana. (Thus, love for your mother, the land, the place where you were born, that is what will make the days and years of your life long.)”³⁷² Not only did Nāwahī identify the familial, interrelated relationship that Kānaka Maoli share with the ʻāina of Hawaiʻi, he suggested additionally that aloha of ʻāina sustains and perpetuates life. Silva argues, “Aloha ʻāina, then, meant more than an abstract or emotional love for the ʻone hānau’ (birth sands). For Nāwahī and the other poʻe aloha ʻāina, it meant that people must strive continuously to control their own government in order to provide life to the people and to care for their land properly.”³⁷³ Nāwahī’s work, through Hui Aloha ʻĀina and *Ke Aloha Aina*, was a gift that paved the way for many other poʻe aloha ʻāina. But it did not come without a cost. Nāwahī died in 1896 after suffering from tuberculosis contracted in the Republic’s prison.

Facing US annexation of Hawaiʻi, Hui Aloha ʻĀina, Hui Aloha ʻĀina o Nā Wāhine, and Hui Kālaiʻāina governed the lāhui on aloha ʻāina. Although Liliʻuokalani speculated that the haole oligarchy hoped Nāwahī’s death would spark the demise of these organizations, this was not the case.³⁷⁴ The three hui held a convention on November 28, 1896, a national holiday called Lā Kūʻokoʻa that celebrates international recognition of the Hawaiian Kingdom’s sovereign independence in 1843. “Delegates were elected from all of the islands to come to Honolulu, vote for new permanent presidents and, for the Hui Aloha ʻĀina, consider an amended constitution,” Silva tells

³⁷² Ibid., 141.

³⁷³ Ibid., 142.

³⁷⁴ Ibid., 143.

us. She describes further how an editorial in *Ke Aloha Aina* mentioned that the presence of wāhine as convention delegates became a symbol that inclusive governance in the lāhui mattered for self-rule.³⁷⁵ Silva maintains, “While these organizations were clearly modeled on Western political structures, the Kanaka Maoli adapted them according to their world view, in which there is no inherent reason why women cannot participate in politics.”³⁷⁶ Although David Kalauokalani was elected as president of Hui Kālai‘āina and James Keauluna Kaulia as president of Hui Aloha ‘Āina, the president of Hui Aloha ‘Āina o Nā Wāhine Abigail Campbell “was acknowledge all through the struggle as a leader of the nation along with the two other male hui presidents.”³⁷⁷ As the year closed, they prepared to contend with the next US President, William L. McKinley, who was keen on annexing Hawai‘i to extend US empire in the Spanish-American War. McKinley met with representatives from the Republic, and in June of 1897 he signed a treaty of annexation with the Republic of Hawai‘i. However, McKinley needed congressional authorization by the Senate. Knowing this, po‘e aloha ‘āina focused on stopping the treaty’s ratification. The three hui embarked on an enormous campaign to collect signatures for petitions against annexation, the Kū‘ē Petitions mentioned in Chapters 1 and 2. The hope was to convince American Senators to vote against the treaty by demonstrating a majority of Kānaka Maoli opposed it. On September 6, 1897, Hui Aloha ‘Āina held another great rally at ‘Iolani Palace to explain the details of the treaty and how it would harm the lāhui. James Kaulia gave an impassioned speech that energized the crowd. He said, “Aole loa kakou ka lahui e ae e hoohuiia ko kakou aina me Amerika a

³⁷⁵ Ibid.

³⁷⁶ Ibid., 143.

³⁷⁷ Ibid., 145.

hiki i ke Aloha Aina hope loa. (We the lāhui will never consent to the annexation of our land to America down to the very last Aloha Aina.)”³⁷⁸ He went on to proclaim, “Mai maka‘u, *e kupaa ma ke Aloha i ka Aina*, a e lokahi ma ka manao. E kue loa aku i ka hoohui ia o Hawaii me Amerika *a hiki i ke aloha aina hope loa*. (Do not be afraid, *be steadfast in aloha for your land* and be united in thought. Protest forever the annexation of Hawai‘i *until the very last aloha aina lives*.)”³⁷⁹ These were powerful words that compelled the lāhui to endorse the petitions. Approximately 38,000 signatures were collected, which is incredible considering that the population of Kānaka Maoli at that time was about 40,000.³⁸⁰ On December 6, a delegation of Kānaka ‘Ōiwi, including Kaulia, arrived in Washington to persuade Senators to vote against the treaty of annexation. They shared Kū‘ē Petitions with Senators and some were brought to tears.³⁸¹ When it came time to vote, the treaty of annexation received less than two-thirds of support and failed to be ratified in the Senate. The articulation of aloha ‘āina within these historical struggles for Kanaka Maoli sovereignty is instructive for studying the battle over nation-building in the present. “This knowledge, experience, and aloha from ‘āina,” Summer Puanani Maunakea writes, “provide[s] the next generation of scholars with systemic frameworks to further liberate academic scholarship.”³⁸² To conclude the

³⁷⁸ Ibid., 146.

³⁷⁹ Ibid., 147.

³⁸⁰ Ibid., 151.

³⁸¹ Ibid., 158.

³⁸² Summer Puanani Maunakea, “Arriving at an ‘Āina Aloha Research Framework: What Is Our Kuleana as the Next Generation of ‘Ōiwi Scholars,” in *Kanaka ‘Ōiwi Methodologies: Mo‘olelo and Metaphor*, ed. Katrina-Ann R. Kapā‘anaokalāokeola Nākoa Oliveira and Erin Kahunawaika‘ala Wright (Honolulu, HI: University of Hawai‘i Press, 2016), 144.

section, I explain how aloha ‘āina provides a critical framework for liberating my analysis.

Aloha ‘āina coalesces into a Kanaka ‘Ōiwi geontology. What I am suggesting is that aloha ‘āina is a way of being that entwines Kānaka ‘Ōiwi with the ‘āina of Hawai‘i. Put simply, aloha ‘āina expresses the nature of being Kanaka Maoli. It is steeped in a cosmological worldview of expansive genealogical relations in which Kānaka Maoli are constituted by and kin with the ‘āina. Povinelli elucidates the philosophical arrangement of geontology. In *The Empire of Love*, she posits, “The ancestral past [is] the geological material of the present, the flesh as it is now arranged.”³⁸³ This definition of geontology is symbolically and materially representative of aloha ‘āina. Povinelli contends that Indigeneity enunciates itself through ancestral genealogies that come to signify geological matter upon which subjects are produced. Aloha ‘āina enunciates a genealogical kinship between Kānaka Maoli and ‘āina, which comes to signify the geological mattering of Hawai‘i and, quite literally, produces subjects as po‘e aloha ‘āina. One cannot be po‘e aloha ‘āina without Kānaka Maoli, one cannot be Kanaka Maoli without Hawai‘i, and Hawai‘i cannot be without the ‘āina.

With this in mind, Povinelli offers another theory of geontology as a form of power operationalized through settler late liberalism. Whereas the bios depicted by Foucault and zoe discussed by Agamben deconstruct a theory of life,³⁸⁴ which is the biopower plotted in the previous chapter, another power has been operative but hidden in

³⁸³ Elizabeth A. Povinelli, *The Empire of Love: Toward a Theory of Intimacy, Genealogy, and Carnality* (Durham, NC: Duke University Press, 2006), 38.

³⁸⁴ Michel Foucault, *Society Must Be Defended*; Michel Foucault, *The History of Sexuality*; Giorgio Agamben, *Homo Sacer*.

the tight allegiance to biopolitics. In *Geontologies*, Povinelli argues that this form of power camouflaged by biopolitics is geontopower.³⁸⁵ “The simplest way of sketching the difference between geontopower and biopower,” she says, “is that the former does not operate through the governance of life and the tactics of death but is rather a set of discourses, affects, and tactics used in late liberalism to maintain or shape the coming relationship of the distinction between Life and Nonlife.”³⁸⁶ If biopower operates by making live and letting die then Povinelli is interrogating the constitution of *what is life* and *what is not life* that might be made to live or left to die. She suggests that settler-states, and also scholarly orientations in the field of new materialism, tend to rely on discourses, affects, and tactics that separate what is and is not life. In this sense, geontopower delineates Life (bios and zoe) and Nonlife (geos). Povinelli suggests that biontology is the nature of Life and geontology is the nature of Nonlife. Distinguishing them proliferates power over Nonlife beings, or subjects determined to be without human life. She describes the theory, “Geontology is intended to highlight, on the one hand, the biontological enclosures of existence (to characterize all existents as endowed with the qualities associated with Life). And, on the other hand, it is intended to highlight the difficulty of finding a critical language to account for the moment in which a form of power long self-evident in certain regimes of settler late liberalism is becoming visible globally.”³⁸⁷ In my estimation, aloha ‘āina represents Povinelli’s first theory of geontology. Aloha ‘āina expresses a geological way of being through cosmological

³⁸⁵ Elizabeth A. Povinelli, *Geontologies: A Requiem to Late Liberalism* (Durham, NC: Duke University Press, 2016).

³⁸⁶ *Ibid.*, 4.

³⁸⁷ *Ibid.*, 5.

genealogy, which, unlike Povinelli's second theory of geontology, does not differentiate between Life and Nonlife. Instead, Aloha 'āina is a nexus of ea, a node of life and sovereignty for Kānaka 'Ōiwi and 'āina. Nevertheless, Povinelli's notion of geontopower under settler late liberalism is useful to denaturalize scholarly orientations, whether in Hawaiian Studies or Asian Settler Colonial Studies, which offer critical language on aloha 'āina that inadvertently bifurcate Kānaka and 'āina, bios and geos, and Life and Nonlife. This notion of geontopower is further useful in my critique of Native Hawaiian nation-building by the State of Hawai'i. Recalling the Constitution of the Native Hawaiian Nation's preamble, opening this chapter, geontopower "translat[es] the dynamic order of human-land relations into the given political order."³⁸⁸ The aloha conveyed in the constitution is manipulated by the State of Hawai'i to abandon 'Ōiwi kuleana to 'āina. Whereas one geontological orientation aids in interpreting ea beyond the settler-state, the other assists in analyzing how the settler-state delineates and limits ea.

State-Determination

To begin my analysis, I trace state legislation and laws that have encouraged Native Hawaiian self-determination through self-governance that produced necessary conditions of possibility for Na'i Aupuni. Although US federal courts ruled that there is no close nexus between the State of Hawai'i and Na'i Aupuni, which I elaborate on later, I show how Na'i Aupuni is indeed a state-determined project for Kanaka Maoli nation-building. By state-determined, I mean to signal how the State of Hawai'i has determined this structure of nation-building to fit for federal recognition. In 2011, during the twenty-sixth legislature of the State of Hawai'i, a bill to facilitate the reorganization of a Native

³⁸⁸ Ibid., 122.

Hawaiian government was introduced. Democratic Senators Clayton Hee, Brickwood Galuteria, Gilbert Kahele, and Pohai Ryan sponsored Senate Bill 1520, the “First Nation Government Bill.” Acknowledging Native Hawaiians as the only Indigenous people of Hawai‘i, an early version of the bill proposed “a process for the reorganization of a first nation government by Native Hawaiians and its subsequent recognition by the State of Hawaii.” Curiously using the political classification First Nation, this legislation was a response to federal legislation under deliberation in Congress. That federal legislation was the “Native Hawaiian Government Reorganization Act,” also known as the Akaka Bill. The Akaka Bill was first introduced on July 20, 2000 in the House of Representatives by Neil Abercrombie, a US Congressman representing the State of Hawai‘i’s first district. Although Congress has yet to authorize one of the versions of the Akaka Bill, mainly due to conservative opposition, the fanaticism for federal recognition endures elsewhere. After leaving Congress in 2010, Neil Abercrombie was elected Governor of the State of Hawai‘i. On July 6, 2011, approximately 11 years after introducing the Akaka Bill in Congress, Abercrombie signed Senate Bill 1520 and authorized it as Act 195. Act 195 is listed under “Native Hawaiian Recognition” in Chapter 10H of the Hawai‘i Revised Statutes. According to J. Kēhaulani Kauanui, “Act 195 was not about crafting a process that allows for anything other than a state-recognized First Nation that will form in anticipation of passage of the Akaka Bill.”³⁸⁹ As suggested at the onset of this chapter, the State of Hawai‘i and federal government are embroiled in complementary, perhaps harmonious, pursuits to dispossess and eliminate Kānaka Maoli. “This is a structural problem,” Kauanui remarks, “it is a *state process* in

³⁸⁹ J. Kēhaulani Kauanui, “Resisting the Akaka Bill,” 327.

the service of *federal recognition*.”³⁹⁰ While scholars like Kauanui have analyzed Senate Bill 1520 and Act 195, I explain in this section how the legislation and law specifically serve the Department of the Interior’s administrative rule to re-establish a government-to-government relationship with the Native Hawaiian community, which other scholars have not.

Act 195 was glorified as an instrument for the State of Hawai‘i to foster Native Hawaiian self-determination by facilitating governmental reorganization. When Governor Abercrombie signed Act 195 into law, he stated proudly, “This is an important step for the future of Native Hawaiian self-determination and the ability for Native Hawaiians to decide their own future.”³⁹¹ Represented as a liberal and impartial advocate, the State of Hawai‘i appeared to marshal a future for Kānaka Maoli, as if Kānaka Maoli do not already exercise agency to shape our own futures. Kanaka Maoli politicians, at the state and federal level, alleged this future is only possible through democratic governance. State Senator Malama Solomon elaborated, “What this bill does is it helps to formally organize the Hawaiian people so they in fact, and we’re hoping through convention or whatever other form they may choose, that they organize themselves for the purpose of creating their own self governance and also to determine their own self determination.”³⁹² The law promoted Native Hawaiian self-determination by encouraging governmental reorganization through a convention. In this logic, a future for the lāhui required a future constitutional convention. The settler-state dictated the legal terms and political structure

³⁹⁰ Ibid, emphasis mine.

³⁹¹ Brooks Baehr, “State official recognizes Hawaii’s indigenous people,” *Hawaii News Now*, July 6, 2011, <http://www.hawaiinewsnow.com/story/15037594/abercrombie-signs-bill-recognizing-native-hawaiians>.

³⁹² Ibid.

of Indigenous self-determination from the jump. US Senator Daniel Akaka, whom the Akaka Bill is named after, chimed in. “This bill compliments what we’re doing in Congress,” he stated, “and it indicates to the people of the United States that the people of Hawaii strongly support the rights of the Native Hawaiians.”³⁹³ Building on the federal legislation that continued to fade in Congress, Act 195 empowered the State of Hawai‘i to create a process for reorganizing and recognizing a Native Hawaiian government. Although some Kānaka ‘Ōiwi, such as Senator Akaka, saw this as a progressive instrument to protect programs and services for Native Hawaiians, other Kānaka ‘Ōiwi expressed that the state process, like its federal counterpart, was divisive and inappropriate for nation-building.³⁹⁴

Act 195 reportedly fulfills the State of Hawai‘i’s trust obligation to Native Hawaiians by establishing a legal process for nation-building. Section 1 of the Act describes its rationale and purpose. Referencing the State of Hawai‘i’s special political and legal relationship to Native Hawaiians, it recounts that legislation has historically been passed “for the betterment of their condition.” A history of passing legislation in the name of bettering conditions for Kānaka Maoli justifies state involvement in matters for Native Hawaiian self-determination and self-governance. This language is based on the Admissions Act of 1959 that Congress passed to institutionalize the “State of Hawai‘i.” In particular, Act 195 mimes section 5(f) in the Admissions Act. This section placed most of the 1.8 million acres of “ceded lands”—the Hawaiian Kingdom’s government and crown lands that were seized by the provisional government—into a public trust. The

³⁹³ Ibid.

³⁹⁴ Ibid.

federal government delegated management of the public land trust to the State of Hawai‘i with five purposes, one of which being the betterment of conditions for Kānaka Maoli. Extending this trust relation, Act 195 praises the State of Hawai‘i for creating the OHA as an agency to advocate for Kānaka Maoli with 20% of revenues from the public land trust. “The State’s designation of the office of Hawaiian affairs as a trust vehicle to act on behalf of Native Hawaiians until a Native Hawaiian governing entity could be reestablished,” it celebrates, “reaffirmed the State’s obligations to the Native Hawaiian people.” This rhetoric is all too familiar. As I explained in Chapter 2, the DOI echoes this language in its rationale for the notices of settlement and rule of recognition. Mirroring federal support in the DOI’s Final Rule, Act 195 reiterates state support for the Apology Resolution and Akaka Bill as evidence of fulfilling obligations to Native Hawaiians. It reflects further that the State of Hawai‘i has mandated the transfer of Kaho‘olawe, an island in the Hawaiian archipelago bombed by the US Navy for almost 50 years,³⁹⁵ to a reorganized and recognized Native Hawaiian government. The DOI’s administrative rule makes transparent that the only land that could be transferred to a Native Hawaiian Governing Entity is Kaho‘olawe. Section 1 concludes by formalizing state recognition of Native Hawaiians: “The purpose of this Act is to recognize Native Hawaiians as the only indigenous, aboriginal, maoli population of Hawai‘i.” Acknowledgement in place, Act 195 declares its fundamental purpose. It concludes, “It is also the State’s desire *to support the continuing development of a reorganized Native Hawaiian governing entity and, ultimately, the federal recognition of Native Hawaiians.*” The State of Hawai‘i passed

³⁹⁵ “Kaho‘olawe History,” *Kaho‘olawe Island Reserve Commission*, accessed January 29, 2019, <http://kahoolawe.hawaii.gov/history.shtml>.

legislation and then enacted law with an emphatic desire to reorganize a NHGE that could be, with expressive intent, recognized by the federal government. Act 195 is intended to facilitate Native Hawaiian nation-building fit for federal recognition.

In Section 2, Act 195 lays out an amendment to Hawai'i Revised Statutes, which created the Native Hawaiian Roll Commission. Appearing to honor Native Hawaiian self-determination, this statutory amendment tasked OHA with the administrative responsibility of managing the roll commission. However, the governor was given the power to select and appoint five "qualified Native Hawaiians" to govern the roll commission. The Native Hawaiian Roll Commission, therefore, was made responsible for:

- (1) Preparing and maintaining a roll of qualified Native Hawaiians; and
- (2) Certifying that the individuals on the roll of qualified Native Hawaiians meet the definition of qualified Native Hawaiians. For the purposes of establishing the roll, a "qualified Native Hawaiian" means an individual who the commission determines has satisfied the following criteria and who makes a written statement certifying that the individual:
 - (A) Is:
 - (i) An individual who is a descendant of the aboriginal peoples who, prior to 1778, occupied and exercised sovereignty in the Hawaiian islands, the area that now constitutes the State of Hawaii; or
 - (ii) An individual who is one of the indigenous, native people of Hawaii and who has eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that individual;
 - (B) Has maintained a significant cultural, social, or civic connection to the Native Hawaiian community and wishes to participate in the organization of the Native Hawaiian governing entity; and
 - (C) Is eighteen years of age or older.

The charge was to prepare and maintain a roll, or registry and database, of individuals that are “qualified Native Hawaiians.” The commission would evaluate and determine who is a qualified Native Hawaiian for eligibility on the roll, according to settler-state standards established by the State of Hawai‘i and federal government. “The recognition of Native status and rights,” Joanne Barker reminds us, “is really about the coercion of Native peoples to *recognize themselves* to be under federal power within federal terms.”³⁹⁶ To be eligible as a qualified Native Hawaiian, three criteria must be satisfied. In the first criteria, an individual could satisfy one of two qualifications: *either* identifying as a descendent of the aboriginal people that occupied and exercised sovereignty in Hawai‘i prior to 1778 *or* as an Indigenous person of Hawai‘i that was eligible in 1921 for the programs conferred by the Hawaiian Homes Commission Act, or identifying as a lineal descendant of an individual eligible in 1921 under the HHCA. In the second criteria, an individual must demonstrate a significant connection, either cultural, social, or civic, to the Native Hawaiian community and additionally desires to participate in reorganizing a NHGE. In the third criteria, an individual must be at least eighteen years old. Satisfying all three criteria would compel the commission to register an individual as a qualified Native Hawaiian on the roll. Moreover, the statute requires the roll commission to publish the list of qualified Native Hawaiians, and update the list as well as publish updated lists. This served a specific purpose. “The publication of the roll of qualified Native Hawaiians,” the statute notes, “is intended to facilitate the process under which qualified Native Hawaiians may independently *commence the organization of a convention of qualified Native Hawaiians*, established for the purpose of organizing

³⁹⁶ Barker, *Native Acts*, 22, original emphasis.

themselves.” The following subsection stipulates that the governor will dissolve the Native Hawaiian Roll Commission after it completes its work—this work being the “organization of a convention of qualified Native Hawaiians.” Authorized by Chapter 10H of the Hawai‘i Revised Statutes (HRS), the Native Hawaiian Roll Commission was created for nation-building with the explicit objective of governmental reorganization that ultimately, according to Act 195, is paired to federal recognition.

Furthermore, Chapter 10H of the HRS shores up settler sovereignty. As I described earlier, this law invokes the Admissions Act to establish the special political and trust relationship with Native Hawaiians. The law also uses the Admissions Act to reaffirm federal authority, power, and negotiations. Consequently, the statute on “Native Hawaiian Recognition” institutionalizes State of Hawai‘i recognition of Native Hawaiians as “the indigenous, aboriginal, maoli population of Hawaii” insofar as to territorially settle Hawai‘i. In subsection nine of section ten, there is an unsurprising disclaimer. It observes, “Nothing in this chapter is intended to serve as a settlement of any claims against the State of Hawaii, or affect the rights of the Native people under state, federal, or international law.” The federal and state laws that I have analyzed, in Chapter 2 and Chapter 3 respectively, illustrate how Native Hawaiian nation-building for federal recognition of a reorganized government will significantly disarm Kanaka Maoli legal claims against the US settler-state. It is as Coulthard writes, “Colonial powers will only recognize the collective rights and identities of Indigenous peoples insofar as this recognition does not throw into question the background legal, political, and economic framework of the colonial relationship itself.”³⁹⁷ Adding insult to the ongoing injury—

³⁹⁷ Coulthard, *Red Skin, White Masks*, 41.

illegal US occupation of the Hawaiian Kingdom and settler colonial capitalism in Hawai‘i—Chapter 10H of the HRS instructs OHA to fund the roll commission. OHA was mandated to allocate money it receives from a minor portion of revenue generated on the public trust that the State of Hawai‘i administers from seized lands of the Hawaiian Kingdom. Displacing not only financial responsibility but also legal and political accountability, Chapter 10H demands, “The legislature urges the office of Hawaiian affairs to continue to support the self-determination process by Native Hawaiians in the formation of their chosen governmental entity.” This legislation and law is the juridical foundation that propelled OHA, an agency of the State of Hawai‘i, to spawn and fund Na‘i Aupuni, a project for nation-building to deliberately reorganize and federally recognize a NHGE according to the DOI’s new administrative rule.

But the Native Hawaiian Roll Commission (NHRC) floundered. After authorization of Act 195, Governor Abercrombie appointed a five-member commission for implementing the roll, including former Governor John D. Waihe‘e who became the chairman. Previously, Waihe‘e accompanied leaders from OHA to lobby Congress to pass the Akaka Bill. Although they were unsuccessful, Waihe‘e and OHA trustees emerged as Kanaka Maoli politicians that enthusiastically sought federal recognition. Recalling that OHA trustees were no longer elected by only Kānaka Maoli but all residents of the State of Hawai‘i after *Rice v. Cayetano* (2000), Goodyear-Ka‘ōpua says, “the trustees pursued a particular path of Hawaiian self-government as elected officials of the settler state, not as elected leaders of a self-determining aboriginal Hawaiian political

body.”³⁹⁸ Akaka found himself in a parallel situation, serving a non-Native Hawaiian majority electorate. “The push for federal recognition became a movement of political elites,” Goodyear-Ka‘ōpua argues, “not a demand of a broad spectrum of the Hawaiian people.”³⁹⁹ Her argument resonates with Coulthard’s assertion that colonial power seeps, as Fanon put it,⁴⁰⁰ into the Indigenous bourgeoisie and political elite as a way to “subtly structure and limit the possibility of their freedom.”⁴⁰¹ As such, OHA provided the roll commission with approximately \$3.3 million for an initial operating budget. The funding paid to launch Kana‘iolowalu as the main registry of the NHRC. On July 20, 2012, they proclaimed, “Kana‘iolowalu is a year-long effort to create a base roll of Native Hawaiians – a registry of individuals who will then be eligible to participate in the formation of a sovereign government.”⁴⁰² Based on my analysis of the DOI’s administrative rule and State of Hawai‘i legislation and law, the sovereignty that the NHRC professed for a reorganized NHGE would be regulated by federal and state governments, limited by Congress’ plenary power, and subordinated under US settler sovereignty. Some Kānaka Maoli desired this form of sovereignty while others refused to relinquish their *ea*. Nevertheless, the ambitious goal of Kana‘iolowalu was to enroll 200,000 individuals as qualified Native Hawaiians in just one year. By August of 2013, about 19,000 individuals voluntarily enrolled in the registry—accounting for a meager

³⁹⁸ Noelani Goodyear-Ka‘ōpua, “‘Now we know:’ Resurgences of Hawaiian independence,” *Politics, Groups, and Identities* 6, no. 3 (2018): 457.

³⁹⁹ *Ibid.*

⁴⁰⁰ Fanon, *The Wretched of the Earth*, 71.

⁴⁰¹ Coulthard, *Red Skin, White Masks*, 39.

⁴⁰² “KANA‘IOLOWALU LAUNCHES ONLINE REGISTRY FOR NATIVE HAWAIIANS,” *Kana‘iolowalu: Native Hawaiian Roll Commission*, July 20, 2012, <http://www.kanaiolowalu.org/news/story/?id=2>.

4% of Kānaka Maoli across the globe.⁴⁰³ Another report suggested that initial enrollment was 40,000, which was still less than 25% of the objective to register 200,000.⁴⁰⁴ The results were atrocious. In response, the NHRC turned to desperate measures.

The NHRC sought additional state legislation to boost enrollment on the Kana‘iolowalu registry. The legislature and Governor Abercrombie came through again, leaving more evidence on this overdetermined path to nation-building. The twenty-seventh legislative session passed House Bill 785, which Abercrombie quickly authorized as Act 77 on May 21, 2013. Act 77 amended subsection A in section 3 of Chapter 10H in the Hawai‘i Revised Statutes. The NHRC’s responsibility was amended to be:

- (1) Preparing and maintaining a roll of qualified Native Hawaiians; and
- (2) Certifying that the individuals on the roll of qualified Native Hawaiians meet the definition of qualified Native Hawaiians. For the purposes of establishing the roll, a “qualified Native Hawaiian” means an individual who the commission determines has satisfied the following criteria and who makes a written statement certifying that the individual:

(A) Is:

(i) An individual who is a descendant of the aboriginal peoples who, prior to 1778, occupied and exercised sovereignty in the Hawaiian islands, the area that now constitutes the State of Hawaii; or

(ii) An individual who is one of the indigenous, native people of Hawaii and who has eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that individual;

(iii) An individual who meets the ancestry requirements of Kamehameha Schools or of any Hawaiian registry program of the office of Hawaiian affairs;

⁴⁰³ Trisha Kehaulani Watson, “Where Do We Go From Here? The Future of Native Hawaiian Self-Determination Hanging in the Balance,” *Huffington Post*, December 9, 2013, <http://www.huffingtonpost.com>.

⁴⁰⁴ Randall Akee, “He ‘Aha Kēia? Is This a Convention?” *Civil Beat*, October 6, 2015, <http://www.civilbeat.org/2015/10/he-‘aha-keia-is-this-a-convention>.

(B) Has maintained a significant cultural, social, or civic connection to the Native Hawaiian community and wishes to participate in the organization of the Native Hawaiian governing entity; and

(C) Is eighteen years of age or older.

(3) Receiving and maintaining documents that verify ancestry; cultural, social, or civic connection to the Native Hawaiian community; and age from individuals seeking to be included in the roll of qualified Native Hawaiians. Notwithstanding any other law to the contrary, these verification documents shall be confidential; and

(4) Notwithstanding any other law to the contrary, including in the roll of qualified Native Hawaiians all individuals already registered with the State as verified Hawaiians or Native Hawaiians through the office of Hawaiian affairs as demonstrated by the production of relevant office of Hawaiian affairs records, and extending to those individuals all rights and recognitions conferred upon other members of the roll.

With the italicized sections highlighting amendments, Act 77 made two primary alterations in state law. It eased criteria for individuals to be certified as qualified Native Hawaiians and transferred names of Kānaka ʻŌiwi from other registries. It was a duplicitous maneuver to increase the number of qualified Native Hawaiians on the Kanaʻiolowalu roll. The NHRC also weaseled themselves into acquiring an additional \$595,000 from OHA, after eclipsing their initial budget, to serve this process. Randall Akee reported that some 71,000 names were imported from other registries to Kanaʻiolowalu,⁴⁰⁵ such as the apolitical, confidential registry Operation ʻOhana that had no intentions for nation-building.⁴⁰⁶ On July 10, 2015, Kanaʻiolowalu was updated and listed 95,000 qualified Native Hawaiians.⁴⁰⁷

⁴⁰⁵ Akee, “He ʻAha Kēia? Is This a Convention?”

⁴⁰⁶ Noelani Arista and Randall Akee, “Manufacturing Consent for the Living AND the Dead in Hawaiʻi,” *Indian Country Today*, November 20, 2015, <http://www.indiancountrytodaymedianetwork.com>.

⁴⁰⁷ Goodyear-Kaʻōpua, ““Now we know,”” 458.

The NHRC’s initial failure and subsequent lobbying revealed explicit violations of consent for a state-determined process of Kanaka Maoli nation-building. According to Anne Keala Kelly, Act 77 functioned “to disguise that abysmal failure, giving permission to Kanaʻiolowalu commissioners to loot other state registries. Lists of Hawaiian people, who were trying to get scholarships and loans or signed other forms of enrollment separate from Kanaʻiolowalu were counted.”⁴⁰⁸ In fact, this happened to me. Without free, prior, and informed consent, my name miraculously appeared on the roll. “It is important to underscore,” Goodyear-Kaʻōpua observes, “that 75% of the people on the certified roll were included without prior consent.”⁴⁰⁹ The State of Hawai‘i was in violation of Article 32 of the United Nations Declaration on the Rights of Indigenous People (UNDRIP), which suggests that states must obtain “free and informed consent prior to the approval of any project affecting their lands or territories and other resources,” especially since Act 195 applied UNDRIP and reaffirmed Kanaka Maoli rights under international law. After receiving criticism, the NHRC instituted a process whereby individuals whose names were imported into Kanaʻiolowalu could remove themselves. This was too good to be true. When I submitted an official form to remove my name, it was not removed. I suspect this occurred to others as well. Although this was negligent, the transferal of names from other databases proved to be quite repugnant. Kanaʻiolowalu imported the names of Kānaka ʻŌiwi that were dead. The name of my kupuna kāne (grandfather), who passed in 2012, appeared on Kanaʻiolowalu. It remains on the Kanaʻiolowalu roll to this very day. Noelani Arista and Randall Akee posit that at least 604 deceased kūpuna

⁴⁰⁸ Anne Keala Kelly, “How to Steal a Nation—Twice,” *Indian Country Today*, November 23, 2015, <http://www.indiancountrytodaymedianetwork.com>.

⁴⁰⁹ Goodyear-Kaʻōpua, ““Now we know,”” 458.

(ancestors) were included on the roll.⁴¹⁰ “While all voter rolls may contain at least some names of the deceased,” they assert, “the difference here is that those individuals gave their express consent to be included on those lists while *alive*. We found almost a hundred names of people who died *prior* to the start of the Kana‘iolowalu legislation in 2012.”⁴¹¹ Kānaka ‘Ōiwi left to die and made dead became valuable to the settler-state, not for their life or labor, for their representational capacity, in a state-determined process of nation-building for federal recognition, to consent to the settlement of their land. This was a necropolitical acquiescence, forcing assent from the world of death. “This process,” Arista and Akee continue, “should not manufacture consent for the living *or* the dead...Mai kaula‘i i ka ‘iwi ma ka lā. Do not display the bones (the dead) in the sun.”⁴¹² Meanwhile, other federal and state processes—the DOI’s ANPRM and NPRM and OHA’s Na‘i Aupuni—were in motion to utilize the roll of qualified Native Hawaiians for nation-building in the service of a new policy for federal recognition.

Constituting Consent

The state-determined project for Native Hawaiian nation-building ushered in a legal process of constituting consent to federal recognition. This legal process was contoured by other federal and state mechanisms. As I mentioned, the DOI issued an ANPRM and NPRM immediately after the State of Hawai‘i authorized Act 195 and appointed the NHRC in 2011, delegated that OHA oversee and fund the Kana‘iolowalu roll in 2012, and passed Act 77 to import other databases into Kana‘iolowalu in 2013.

⁴¹⁰ Arista and Akee, “Manufacturing Consent for the Living AND the Dead in Hawai‘i.”

⁴¹¹ Ibid.

⁴¹² Ibid.

After a state-determined process to reorganize a Native Hawaiian government and new federal procedure to recognize a reorganized Native Hawaiian government without land were in place, Na‘i Aupuni stormed onto the scene. Na‘i Aupuni formed as a private nonprofit organization with the principal purpose of reorganizing a Native Hawaiian government. To be clear, it was institutionalized *in the wake* of state legislation, laws, and instruments to reorganize a NHGE and *while* an executive rule-making procedure proposed an administrative rule to federally recognize a reorganized NHGE. “[C]oercion,” Osorio says, “has been the hallmark of this whole process.”⁴¹³ In this section, I map out this coercive process to demonstrate how Native Hawaiian nation-building, working on achieving self-determination and sovereignty via the State of Hawai‘i, abstracts and abandons relations to the ‘āina of Hawai‘i.

The DOI’s ANPRM and NPRM recommended Kana‘iolowalu as a certified roll to determine voting eligibility for Na‘i Aupuni. The ANPRM stated that an administrative rule would not affect the design of a constitution or its membership criteria, since these are “sovereign prerogatives.”⁴¹⁴ “But,” the ANPRM stipulated, “a Federal administrative rule concerning reorganization of a Native Hawaiian government would need to determine who can participate in the reorganization, including who would be eligible to vote in a ratification referendum.”⁴¹⁵ It proposed four possible approaches

⁴¹³ Jon Kamakawiwo‘ole Osorio, “Coercive Nature of Na‘i Aupuni Process Ultimately Dooms It To Failure,” *Civil Beat*, November 11, 2015, <http://www.civilbeat.org/2015/11/coercive-nature-of-nai-aupuni-process-ultimately-dooms-it-to-failure>.

⁴¹⁴ Department of the Interior, Advanced Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community,” 35300.

⁴¹⁵ *Ibid.*

to determine eligibility for voting in a ratification referendum. First, eligibility could be limited to “native Hawaiians” as defined by the HHCA. Second, eligibility could be limited to “qualified Native Hawaiians” in accordance with Acts 195 and 77. Third, eligibility could be limited to “qualified Native Hawaiians” as determined by the NHRC. Fourth, eligibility could be limited to “qualified Native Hawaiian constituents” in accordance with the Akaka Bill. These approaches coalesced in the NPRM. In it, eligibility for voting to ratify a governing document included all approaches. The NPRM proposed thresholds for broad-based community participation and support from HHCA-native Hawaiians and Native Hawaiians. Total turnout, for all Native Hawaiian voters, was predicted between 60,000 and 100,000. Uncannily, the estimated top of this turnout range reflected the number of qualified Native Hawaiians on Kana‘iolowalu in July of 2015, just three months before the DOI published the NPRM. The NPRM additionally suggested that documentation would be required to demonstrate how the Native Hawaiian community determined participation in ratification of a constitution. It stated, “The Native Hawaiian community may use *a roll of Native Hawaiians certified by a State of Hawaii commission or agency under State law* as an accurate and complete list of Native Hawaiians eligible to vote in the ratification referendum.”⁴¹⁶ The notices of settlement highlighted that Kana‘iolowalu offered an appropriate registry of qualified Native Hawaiians to participate in ratifying a governing document designed and adopted by a constitutional convention to reorganize a NHGE. The State of Hawai‘i, OHA, and NHRC succeeded in establishing a roll, despite egregious violations of consent, that

⁴¹⁶ Department of the Interior, Notice for Proposed Rulemaking, “Procedures for Reestablishing a Government-to-Government Relationship With the Native Hawaiian Community, 1090-AB05,” 59130, emphasis mine.

could be utilized by Na‘i Aupuni for achieving federal recognition through the DOI’s rule change.

Na‘i Aupuni’s organizational bylaws and contractual agreements demonstrate there was a close nexus between Na‘i Aupuni and the State of Hawai‘i that sought to be hidden. With a registry of certified voters established, OHA created Na‘i Aupuni. Authorized on February 23, 2015, the Bylaws of Na‘i Aupuni state, “The purpose of the Corporation [Na‘i Aupuni] shall be to assist in the non-political aspects of an election of delegates, ‘Aha and ratification vote for the purpose of self-determination.” The purpose was three-fold: facilitate an election for delegates in a constitutional convention, host a constitutional convention, and oversee a ratification referendum. Na‘i Aupuni pivoted on facilitating an election for delegates of the ‘Aha, or constitutional convention, and a ratification of their constitution. To do so, it institutionalized as a corporation with *nonprofit character*. Na‘i Aupuni did not register as a nonprofit organization under section 501(c)(3) of the Internal Revenue Code in federal law. “The Office of Hawaiian Affairs (OHA) authorized and approved the use of the Funds,” the bylaws continue, “to enable Native Hawaiians to participate in a process through which a structure for a governing entity may be determined by the collective will of the Native Hawaiian people *by transmitting the Funds to an entity that is independent of OHA and any apparatus of the State of Hawai‘i.*” Na‘i Aupuni’s contractual agreements with OHA explain what this means. In the first week of April in 2015, a Letter Agreement was signed by the CEO of OHA, President and Director of Na‘i Aupuni, and Chairman and Secretary of the Akamai Foundation. The agreement mandated that OHA grant approximately \$2.6 million of trust funds to the Akamai Foundation for the benefit of Na‘i Aupuni. As a 501(c)(3) nonprofit

organization, the Akamai Foundation could receive tax-exempt money from OHA, whereas Na‘i Aupuni could not. But the apportionment of \$2.6 million, ordered in the Letter Agreement, was in accordance with Na‘i Aupuni’s projected budget. The contract maintained that OHA would provide a grant to the Akamai Foundation for the benefit of Na‘i Aupuni. In the Fiscal Sponsorship Agreement between the Akamai Foundation and Na‘i Aupuni, the Akamai Foundation agreed to be Na‘i Aupuni’s fiscal sponsor, which meant it would receive funds from OHA on behalf of Na‘i Aupuni. The next contract, titled Grant Agreement Between the Akamai Foundation and the Office of Hawaiian Affairs for the Use and Benefit of Na‘i Aupuni, is quite revealing. After echoing Chapter 10H of HRS, an agreement was struck for OHA to grant \$2.6 million to the Akamai Foundation for Na‘i Aupuni. The Scope of Services reads, “AF [Akamai Foundation] will direct the use of the grant to NA [Na‘i Aupuni] so it may facilitate an election of delegates, election and referendum monitoring, a governance ‘Aha, and a referendum to ratify any recommendation of the delegates arising out of the ‘Aha... The scope of services represents the internal affairs of the Hawaiian community and thus will not exclude those Hawaiians who have enrolled and have been verified by the Native Hawaiian Roll Commission.” Using the Akamai Foundation as a fiscal sponsor generated separation between OHA and Na‘i Aupuni. This produced two degrees of separation between the State of Hawai‘i and Na‘i Aupuni. Anxiously so, the bylaws and contracts include conditions that Na‘i Aupuni is autonomous from the Akamai Foundation, OHA, and the State of Hawai‘i. These legal documents unambiguously camouflaged a close nexus across US settler-state entities in Hawai‘i. Indeed, Na‘i Aupuni was structurally determined by the State of Hawai‘i not self-determined by the lāhui.

A lawsuit in US federal court shows that this close nexus was disaggregated by a liberal ruling that alibied colonialism with race. What I am demonstrating here is that conservative *and* liberal legal arguments about Indigenous nation-building in Hawai‘i work hand-in-hand for colonial dispossession. On August 13, 2015, a complaint was filed in District Court for declaratory and injunctive relief against the State of Hawai‘i, OHA, NHRC, Akamai Foundation, and Na‘i Aupuni. It stated, “Plaintiffs are individual registered voters who seek declaratory and injunctive relief to enjoin race-based, viewpoint-based, and other restrictions and qualifications imposed by Hawaii law and enforced by agents of the State of Hawaii on those seeking to register as voters on a list (the ‘Roll’) maintained by defendants.” The plaintiffs alleged that qualifications for registering on Kana‘iolowalu and restricting voting in Na‘i Aupuni to this roll violated the First, Fourteenth, and Fifteenth Amendments of the US constitution as well as the Civil Rights Act and Voting Rights Act in federal law. They sought, on one hand, a declaratory judgement that registration qualifications and voting restrictions violate their constitutional and federal rights and, on the other, a permanent injunction against implementation of these qualifications and restrictions. Two plaintiffs asserted that their names were registered on Kana‘iolowalu without their knowledge or consent. Two other plaintiffs claimed that they could not register on Kana‘iolowalu because it required three positive declarations on Native Hawaiian sovereignty, cultural connection to the Native Hawaiian community, and identification as Native Hawaiian. The final two plaintiffs posited that they were unable to register on Kana‘iolowalu because they could not satisfy verification criteria for Native Hawaiian ancestry. The lawsuit altogether suggested, “OHA and the NHRC attempted to shield themselves from legal responsibility for setting

up race-based, viewpoint-based, and other restrictions on voters and candidates in the proposed election based on the Roll by contracting with AF [Akamai Foundation] and NAF [Na‘i Aupuni Foundation].” Put another way, this alleged that contractual agreements that provided the Akamai Foundation with trust funding for Na‘i Aupuni’s delegate election and ratification referendum, which were limited for participation based on Kana‘iolowalu, shielded OHA from legal culpability as a State of Hawai‘i agency instituting an election and referendum that were racially and politically discriminatory.

There are two noteworthy issues in the lawsuit that I want to stew on. First, the conservative complaint presented a strong argument that there is a close nexus between the State of Hawai‘i, OHA, NHRC, Akamai Foundation, and Na‘i Aupuni. This argument supports my own that the close nexus illustrates how Na‘i Aupuni was a product of state-determination. For instance, the lawsuit reproduces the written minutes from an OHA Board of Trustees meeting on February 26, 2015 wherein trustees questioned the legality of funding Na‘i Aupuni. In it, Trustee Peter Apo “believes that this is a very tricky navigation required. He is overly cautious that if we keep tying ourselves to this, we are going to get sued.” The solution for OHA was a “simple trick of contracting with nonprofits,” the lawsuit argued. “By signing, and paying for, agreements with AF and NAF to carry out the very purposes that OHA has expressly stated it wants to achieve,” it continued, “OHA has affirmed, authorized, encouraged, and facilitated the wrongful action that is the subject of this lawsuit, thereby rendering AF and NAF state actors.” Considered action on behalf of the State of Hawai‘i, Na‘i Aupuni appeared to be in violation of the US constitution and federal law. Second, the complaint alleged that defendants were in violation of discrimination based on race. Relying on the decision in

Rice v. Cayetano (2000), the conservative complaint argued that ancestry qualifications for Kana‘iolowalu and voting restrictions based on the roll were racially exclusionary. While I disagree with this argument—the category Native Hawaiian is not a racial classification but a political status—this became a key issue in the District Court’s ruling. On October 29, 2015, the District Court denied the plaintiff’s motion for an injunction in *Akina v. Hawaii* (2015). Cunningly, the court’s decision disaggregates the close nexus of settler-state entities vis-à-vis refutation that Na‘i Aupuni’s election and referendum are not racially exclusive and discriminatory. It counters that Na‘i Aupuni is not an arm of the State of Hawai‘i on the basis that it is a private nonprofit seeking to independently reorganize a NHGE through a private election. Citing case law on tribal sovereignty, the opinion points out that an analogous yet separate relationship with the federal government exists that affords Native Hawaiians a similar political status as Native Americans not based on race. Parroting the importance of Indigenous sovereignty, the District Court affirmed the self-determining rights of Na‘i Aupuni to reorganize a NHGE. The court believed that the registration qualifications and voting restrictions were tailored for a compelling federal and state interest—the facilitation of Indigenous self-determination for self-governance—which ultimately meets strict scrutiny for equal protection. Although the lawsuit’s argument that a close nexus exists between the State of Hawai‘i and Na‘i Aupuni, demonstrating how it came to be state-determined not self-determining, I disagree with the weaponization of this argument to claim Na‘i Aupuni was racially discriminatory. Rather, I am arguing that Na‘i Aupuni was not self-determined by Kānaka Maoli, nor was it racially discriminatory. The District Court, and subsequent Circuit Court decision in *Akina v. Hawaii* (2016), appropriately claimed

Native Hawaiian as a political status not racial classification. However, both federal courts employed a discussion of race that erases the US settler-state's colonial imperative for dispossessing Hawai'i. By refuting the attack on what they regarded as affirmative action protections, the federal courts were able to manipulate the conservative argument into a liberal defense of the political standing of Kānaka Maoli that could defer the colonial relationship within a state-determined process for reorganizing a NHGE to be federally recognized. In sum, American conservatism and liberalism work hand-in-hand to stymie the ea of the 'āina.

In the final part to this section, I interrogate the Constitution of the Native Hawaiian Nation, which was adopted on February 26, 2016 in the 'Aha sponsored by Na'i Aupuni. The Constitution of the Native Hawaiian Nation can signify Kanaka Maoli acquiescence to federal recognition and ultimately US settler sovereignty. The preamble of the constitution provides a duplicitous framework for the Native Hawaiian Nation. The preamble concludes by stating, "UA MAU KE EA O KA 'ĀINA I KA PONO." Based on the arrangement of Na'i Aupuni and its 'Aha, this phrase represents two significations. On one hand, the phrase signifies an older expression uttered by Kamehameha III Kauikeaouli. In 1843, Richard Charleton, the British consul to Hawai'i, became involved in a dispute with ali'i over a small house lot in Honolulu.⁴¹⁷ Against the wishes of ali'i and at odds with Hawaiian Kingdom law, Charleton expanded the physical structure of the home and was charged to pay easement, break down the expansion, or demolish the entire home. He sent word of this to George Paulet, a commander of a British warship. On February 10, 1843, Paulet traveled to Honolulu

⁴¹⁷ Silva, *Aloha Betrayed*, 36.

and moored his warship to investigate Charleton's claim. He then demanded that Charleton be given legal rights to property over his land, all British citizens in Hawai'i only be held to British law, and Charleton receive \$100,000 as an indemnity payment. Paulet suggested that Kamehameha's failure to comply would result in war. Kamehameha informed the commander that he sent an official to settle this affair with Queen Victoria in England, under the basis that Paulet's demands were "contravening the law established for the benefit of all."⁴¹⁸ Once Paulet threatened to fire upon Honolulu harbor, Kamehameha provisionally ceded national sovereignty under protest. The protest called on Queen Victoria to "e ho'ihoi mai i ke ea o ka 'āina [return the ea of the land]." She quickly disavowed Paulet's actions and the protest was forwarded to admiral Richard Thomas who sailed from Chile to Hawai'i to reprimand Paulet and restore the Hawaiian Kingdom's national sovereignty. After 5-months of British occupation, sovereign authority returned to the 'āina and Kamehameha on July 31. The day became celebrated as a national holiday and named Lā Ho'ihoi Ea, or Sovereignty Restoration Day. That day Kamehameha uttered: ua mau ke ea o ka 'āina i ka pono.

On the other hand, the constitution's reiteration of this older expression symbolizes US settler-state geotopower in Hawai'i. Although "ua mau ke ea o ka 'āina i ka pono" was originally articulated to celebrate the restoration of ea to the land, people, and nation of Hawai'i, it became co-opted by the State of Hawai'i. On May 1, 1959, the territorial legislature's Joint Resolution No. 4 codified "ua ma ke ea o ka

⁴¹⁸ Ibid.

aina i ka pono” as the State of Hawai‘i’s official motto. The formal maxim of the Hawaiian Kingdom after Kauikeaouli’s decree, Silva writes that it “then (strangely or perversely) was appropriated as the motto of the State of Hawai‘i.”⁴¹⁹ This complex enunciation, linking sovereign relations between the ‘āina, Kanaka Maoli, and lāhui, has been distorted from a “dynamic order of human-land relations into the given political order.”⁴²⁰ Now, it is incorporated into the Constitution of the Native Hawaiian Nation. It is unclear whether or not delegates that designed the constitution intended to signify Kauikeaouli’s expression or the State of Hawai‘i’s motto. Nevertheless, reorganization of the Native Hawaiian Nation was a state-determined process, and it is clear that the invocation of ua mau ke ea o ka ‘āina i ka pono operates to position the Native Hawaiian Nation as an heir of the Hawaiian Kingdom to be federally recognized as an authentic and legitimate government. But this claim to juridical sovereignty is blighted because federal recognition will subsume it within US settler sovereignty, cleaving the ea of the ‘āina. It is both a strange and perverse appropriation that illustrates settler-state geontopower not the geontology of aloha ‘āina.

The Constitution of the Native Hawaiian Nation conveys aloha ‘āina in ways that distinguish forms of life, separating the ea of Kānaka Maoli from the ea of ‘āina. Differently put, it purports to produce sovereignty and life for Kānaka Maoli *but not the ‘āina of Hawai‘i*. This is distinctly dissimilar from Kauikeaouli’s expression that centered the ea of the ‘āina. In the Declaration of Rights, Article 7 discusses

⁴¹⁹ Silva, *Aloha Betrayed*, 37.

⁴²⁰ Povinelli, *Geontologies*, 122.

obligations to the ‘āina. It states, “The Nation has a right, duty, and kuleana, both individually and collectively, to sustain the ‘Āina (land, kai [water], wai [fresh water], air) as an ancestor, source of mana, and source of life and well-being for present and future generations.” Citizens and the government of the Native Hawaiian Nation have rights and responsibilities to sustain the ‘āina not just as an ancestor but *source of power, life, and futurity*. ‘Āina is rendered a source for the proliferation of human power and transmission of human life. Although acknowledged as an ancestor, the ‘āina appears to be a resource to provide human life that, simultaneously, is without human life. The power of the land, water, and air is indexed through an anthropocentric ability to empower Kānaka Maoli to exercise self-governance and achieve a sovereign future. In other words, the defense of sovereignty for Native Hawaiians forecloses the ea of the ‘āina.

Beyond a set of discourses and affects, the constitution’s territorial jurisdiction reveals legal tactics of US settler-state geotopower. “This constitution says that, in terms of land,” Osorio contends, “the Hawaiian government will take, not what it deserves and not what it is still entitled to; rather, *it will take what it can get*.”⁴²¹

Article 1 of the constitution charts internal jurisdiction over territory and land. Section 1 claims, “The territory of the Native Hawaiian Nation is all lands, water, property, airspace, surface and subsurface rights, and other natural resources, belonging to, controlled by, and designated for conveyance to and for the Hawaiian Nation.” In this

⁴²¹ John Kamakawiwo‘ole Osorio, “Three major problems with the ‘Aha constitution,” *The Hawai‘i Independent*, March 15, 2016, <http://www.hawaiiindependent.net>, emphasis mine.

passage, the land-base includes everything belonging to, controlled by, and designated for the Native Hawaiian Nation. Although this seems to be a radical *right to everything*, the following section suggests that territorial jurisdiction is *everything and nothing* at the same time. Section 2 notes that “the Native Hawaiian people have never relinquished their claims to their national lands,” insofar as to instruct, “[t]o the maximum extent possible, the Government shall pursue the repatriation and return of the national lands, together with all rights, resources, and appurtenances associated with or appertaining to those lands, or other just compensation for lands lost.” While the citizens of the Native Hawaiian Nation, not all Kānaka Maoli but only those qualified Native Hawaiians in the Kana‘iolowalu registry, are animated by a purportedly sovereign life through State of Hawai‘i reorganization and US federal recognition, the same cannot be said for the ‘āina of Hawai‘i. Section 2 of Article 1 describes there is essentially no land and territory under jurisdiction of the Native Hawaiian Nation. While Article 23 later identifies that Kaho‘olawe is the only land-base available to the Native Hawaiian Nation, Section 2 details that citizens and the government of the Native Hawaiian Nation will need to repatriate lands through protocols of the settler-state. The Constitution of the Native Hawaiian Nation promises sovereignty through self-governance for an exclusive group of Kanaka Maoli life. It also codes the ‘āina without life and sovereignty in ways that could relinquish Kanaka Maoli claims to territorial sovereignty over national lands. Aguon’s thorough criticism of federal recognition in the context of international law supports this. He posits that the Apology Resolution’s claim that Kānaka Maoli are a sovereign people who have never surrendered their national lands is evidence of non-

acquiescence. “*Under international law,*” Aguon says, “*this is a material admission against interest.* As such, any international tribunal seized today of the ‘Question of Hawai‘i’ will take judicial notice of this admission and most likely consider it as evidence of Hawaiian non-acquiescence to U.S. rule.”⁴²² “Why, if the 1993 Apology Resolution in effect provides a solid case for the *non-acquiescence* of the Hawaiian people to U.S. rule,” he bemoans, “would anyone thereafter pursue federal recognition as a quasi-sovereign nation vis-à-vis the United States given the likelihood that the international community will read acquiescence in said recognition?”⁴²³ The Constitution of the Native Hawaiian Nation puts on display the difficulties of asserting juridical and territorial sovereignty within a state-determined process for reorganizing a government to be federally recognized. The US settler-state’s geontopower, passing through Kānaka Maoli who participated as delegates in Na‘i Aupuni and the ‘Aha, has animated the Constitution of the Native Hawaiian Nation as a governing document to quite literally constitute consent to federal recognition and therefore acquiesce to the juridical and territorial sovereignty of the US settler-state.

‘Aha Aloha ‘Āina

In this concluding section, I track the formation of ‘Aha Aloha ‘Āina, an alternative project for Kanaka Maoli nation-building that centered aloha ‘āina to counter state-determined nation-building for federal recognition. On August 3, 2015, Na‘i Aupuni sent election notices to the 95,000 qualified Native Hawaiians certified on Kana‘iolowalu. They advertised an election to determine delegates for the constitutional

⁴²² Aguon, *The Commerce of Recognition (Buy One Ethos, Get One Free)*, 63, original emphasis.

⁴²³ *Ibid.*, 64, original emphasis.

convention and included information about registering to become a delegate candidate. Initially, Na‘i Aupuni suggested that 40 delegates would be elected to participate in the ‘Aha. After registration closed, Na‘i Aupuni released the names of 209 delegate candidates on September 30. Community meetings sprang up under the banner of Hālāwai Aloha ‘Āina (Meeting for Aloha ‘Āina) to organize against and protest Na‘i Aupuni. This was reminiscent of the late 19th century emergence of Hui Kālai‘āina and Hui Aloha ‘Āina that I explored earlier. Meetings were held across the islands of O‘ahu, Maui, Hawai‘i, and Kaua‘i. The Hālāwai Aloha ‘Āina discussed how the ‘Aha would harm Kanaka Maoli self-determination and possibly disassemble Hawaiian sovereignty. During this time, the plaintiffs in *Akina v. Hawaii* (2015) filed a motion for an emergency injunction to halt the election of Na‘i Aupuni’s delegate candidates until their appeal of the District Court ruling could be reviewed in Circuit Court. On December 2, the US Supreme Court published order 15A551, granting the motion for an emergency injunction. In a 5-4 decision, Justice Anthony Kennedy, who authored the majority opinion in *Rice v. Cayetano* (2000), ruled, “Respondents are enjoined from counting the ballots cast in, and certifying the winners of, the election described in the application, pending final disposition of the appeal by the United States Court of Appeals for the Ninth Circuit.” Na‘i Aupuni’s election was stalled. Instead of counting ballots and certifying the winners for 40 seats at the constitutional convention, Na‘i Aupuni offered seats to everyone. This abided by the ruling and swerved it altogether. Although some dropped out in the process, Na‘i Aupuni invited 196 candidates to participate as delegates in the ‘Aha. The *Akina* plaintiffs filed a motion to hold the defendants in civil contempt for noncompliance with the order, but the Supreme Court denied the motion. The ‘Aha

was finally set. But when Na‘i Aupuni’s ‘Aha convened 154 delegates at the Royal Hawaiian Golf Course in Maunawili, O‘ahu on February 1, 2016, so too did Kanaka Maoli activists.

‘Aha Aloha ‘Āina was born out of protest against Na‘i Aupuni. Before the ‘Aha convened, Kānaka ‘Ōiwi met in the Hālāwai Aloha ‘Āina to plan tactics for stopping Na‘i Aupuni. Longtime po‘e aloha ‘āina Healani Sonoda-Pale organized meetings, panel presentations, demonstrations, and much more. She was instrumental in doing the research, referenced in Chapter 2, to determine that 95% of Kānaka Maoli who provided oral testimony for the DOI’s ANPRM said no and ‘a‘ole to the offer of federal recognition. On November 13, 2015, Sonoda-Pale stood in front of the State of Hawai‘i’s capitol building in downtown Honolulu with a sign reading: DON’T VOTE NA‘I AUPUNI (see figure 13). Demonstrators there even burned ballots that they received in the mail for the delegate candidate election. The message, from her and other Kanaka Maoli activists, to those qualified Native Hawaiians enrolled on Kana‘iolowalu was to



Figure 13. DON'T VOTE NA'I AUPUNI. Source: *Honolulu Star-Advertiser*.⁴²⁴

⁴²⁴ Timothy Hurley, “Na‘i Aupuni cancels Native Hawaiian election,” *Honolulu Star-Advertiser*, December 15, 2015,

refuse voting for delegate candidates of the constitutional convention. Na‘i Aupuni did not just receive pressure from the federal lawsuit and Supreme Court order but also activists like Sonoda-Pale. As I mentioned, Na‘i Aupuni canceled the election but invited all candidates to be delegates in the ‘Aha. In response, Sonoda-Pale and others created Protest Na‘i Aupuni, a coalition to protest against Na‘i Aupuni’s state-determined nation-building tied to federal recognition. When the ‘Aha first convened in Maunawili on February 1, 2016, participants of Protest Na‘i Aupuni convened as well. Activists lined the main road to the Royal Hawaiian Golf Course where the ‘Aha would be held in a convention hall. Their messaging to delegates approaching the ‘Aha was unmistakable. Refuting the assertion that Na‘i Aupuni promised sovereignty and life, there was a large sign, bolded in red letters, that stated: NA‘I AUPUNI IS THE DEATH OF HAWAIIAN RIGHTS (see figure 14). Protest Na‘i Aupuni minced no words; they interpreted



Figure 14. Na‘i Aupuni is the death of Hawaiian rights. Source: Protest Na‘i Aupuni.⁴²⁵

<http://www.staradvertiser.com/2015/12/15/breaking-news/nai-aupuni-cancels-native-hawaiian-election>.

⁴²⁵ “Protest Na‘i Aupuni,” *Protest Na‘i Aupuni*.

state-determined nation-building for federal recognition as the death of Kanaka Maoli legal rights and claims to sovereignty. Over social media, Na‘i Aupuni became mocked as “Ma‘i Aupuni,” meaning governance disease. As I have argued, this project for Native Hawaiian nation-building was contaminated and ailed by state-determination for federal recognition. Members of Protest Na‘i Aupuni continued to show up and demonstrate in Maunawili as the ‘Aha rolled on. Na‘i Aupuni’s ‘Aha culminated with 88 votes in favor, 30 votes in opposition, and one vote in abstention to adopt the Constitution of the Native Hawaiian Nation. But it also ended with the arrest of Kanaka ‘Ōiwi activists, some of who went on to found ‘Aha Aloha ‘Āina, an assembly for aloha of ‘āina.

‘Aha Aloha ‘Āina organized as a coalition to envision and practice Kanaka Maoli nation-building beyond the settler-state and its legal apparatus. The coalition’s work surpassed State of Hawai‘i legislation and law as well as the US federal government’s executive administrative rule. In this sense, their nation-building was non-statist and extra-legal. On February 22, the day that the ‘Aha concluded by adopting a governing document, Kanaka Maoli activists attempted to enter the premise where the constitutional convention was being held and eight of them were arrested (see figure 15). Those arrested were charged with trespassing on private property.⁴²⁶ Settler capital reared its ugly head and became the rationale, in the form of private property, for criminalizing and incarcerating Kānaka ‘Ōiwi that opposed legal procedures for colonial dispossession. In Hawai‘i, the US settler-state has been animated by settler colonial capital, and its agents

⁴²⁶ “Police make 8 trespassing arrests at aha,” *Honolulu Star-Advertiser*, February 23, 2016, <http://www.staradvertiser.com/2016/02/23/breaking-news/police-make-8-trespassing-arrests-at-aha>.

have done what is necessary to defend settler capital at the expense of Kānaka Maoli and our national and Indigenous sovereignties. Healani Sonoda-Pale was among those



Figure 15. Aloha ‘Āina. Source: ‘Aha Aloha ‘Āina.⁴²⁷

arrested. Another enduring kanaka aloha ‘āina, Kalamaoka‘āina Niheu was also detained by police. Throughout my research, I talked with Niheu and discovered that she is a descendent of Kala‘iokamalino from Ni‘ihau who wove the moena pāwehe makana analyzed in Chapter 1. Sonoda-Pale and Niheu became crucial organizers of ‘Aha Aloha ‘Āina. According to their official website, “The ‘Aha Aloha ‘Āina began as a response to the resounding community feedback from the Department of Interior (DOI) 2014 Hearings and Hālāwai Aloha ‘Āina informational meetings that Hawaiian leaders held from October to November, 2015 throughout Hawai‘i. A key unifying concern was protest to the State of Hawai‘i sponsored initiatives to undermine the Hawaiian sovereignty movement and rights to Self-Determination and Independence (i.e.

⁴²⁷ “‘Aha Aloha ‘Āina,” ‘Aha Aloha ‘Āina.

Kana‘iolowalu and Na‘i Aupuni).”⁴²⁸ The response to opposition expressed during DOI’s ANPRM was unification against federal recognition that the State of Hawai‘i attempted to facilitate through OHA, NHRC, Kana‘iolowalu, and Na‘i Aupuni. None of these organizations could be trusted with fostering genuine unity because they were regulated, and the Kānaka Maoli working in them disciplined, by the US settler-state. ‘Aha Aloha ‘Āina identified that unification was located in the political struggle to secure sovereignty, self-determination, and independence. In doing so, the coalition fashioned two principal declarations. The first declaration reaffirmed Hawaiian independence from the US settler-state and protested against Na‘i Aupuni and federal recognition. It asserted a commitment to rebuild the lāhui in seven ways:

- 1) the reclamation of our gathering rights;
- 2) the spread of ‘ōlelo Hawaii and the re-envisioning of our educational systems;
- 3) the revitalization of our traditional resource stewardship that assured food sustainability through responsible stream, estuary/reef management as well as kalo farming and fishpond upkeep;
- 4) resistance of the perils of climate change via the pursuit of a truly independent economic system free from the strangle-hold of transnational corporations;
- 5) the re-invigoration of traditional means of healing such as ‘ai pono, ho‘oponopono, lomilomi, and the protection of wahi pana like Mauna Kea, Waipi‘o, and Haleakalā;
- 6) the expansion of scholarly research to uncover the full range of traditional knowledge that our kupuna gifted us;
- 7) **Finally, we shall Unify** all efforts to create an Independent Hawaii, and to [*sic*] restore Ko Hawai‘i Pae ‘Āina to the descendants of the Hawaiian Kingdom for a better future for generations to come.⁴²⁹

This mapped out a future-dawning agenda for Kanaka Maoli nation-building that was unregulated and undisciplined by the settler-state. Independence became the focus of

⁴²⁸ Ibid.

⁴²⁹ Aha Aloha Aina 2016, “Declaration Reaffirming Hawai‘i Independence, Protesting Na‘i Aupuni, and United States Federal Recognition,” *iPetitions*, accessed February 12, 2019, <https://www.ipetitions.com/petition/declaration-reaffirming-independence>, original emphasis.

growing and cultivating the lāhui. The second declaration rejected and condemned Na‘i Aupuni’s ‘Aha. It exclaimed, “We, the undersigned, firmly reject the illegitimate Na‘i Aupuni ‘Aha objective to create a Native Hawaiian government. We stand in opposition to any governing documents and governing body that is produced through this ‘aha. We continue to stand for the unification of our people through a transparent process, *free from any state or federal interference, control, or prescribed destiny.*”⁴³⁰ These became governing documents of ‘Aha Aloha ‘Āina that centered a firm stance against the settler-state and its legal milieu. ‘Aha Aloha ‘Āina did not demand participation in state-determined nation-building for federal recognition, nor did it desire to work within the constraints of the settler-state apparatuses and law. It was ea in motion on-the-‘āina.

With Na‘i Aupuni perverting the ea of the ‘āina, ‘Aha Aloha ‘Āina set out to advance healthy governance for the lāhui. Turning away from the settler-state, the organization describes its main purpose: “‘Aha Aloha ‘Āina is a coalition of more than 40 Kānaka Maoli (aboriginal Hawaiian) organizations, businesses, and Hawaiian leaders dedicated to collectively determining the path forward for the healthy governance of our people.”⁴³¹ This system of governance was premised upon not just aloha ‘āina, as the coalition’s name signals, but a particular framework. “We,” they detail, “have undertaken this process through a series of public meetings that utilize the traditional framework of Kino Kālaimoku; a process that is independent of control by the State of Hawai‘i.”⁴³² An

⁴³⁰ ‘Ilima Long, “Declaration from the Lāhui Kanaka Rejecting and Condemning Na‘i Aupuni ‘Aha,” *iPetitions*, accessed February 12, 2019, <http://www.ipetitions.com/petition/declaration-from-the-lahui-kanaka-no-governing>, emphasis mine.

⁴³¹ “‘Aha Aloha ‘Āina,” ‘Aha Aloha ‘Āina.

⁴³² *Ibid.*

‘Ōiwi ontology of life and epistemology for governance, Kino Kālainimoku pivots on regenerating Indigenous life and governance in Hawai‘i (see figure 16), which ultimately refuses settler-state control. Kino means body whereas kālainimoku literally translates to

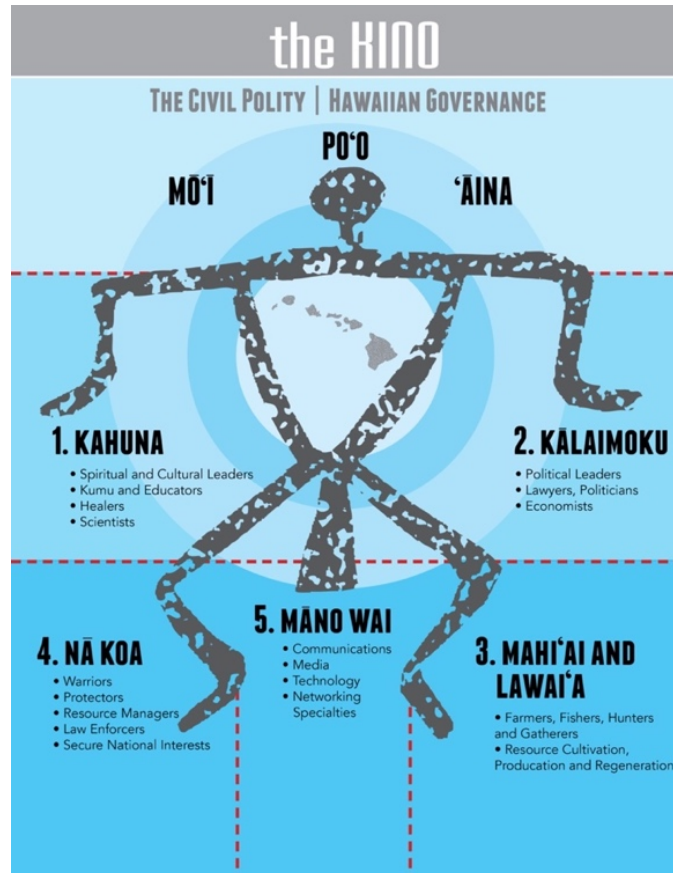


Figure 16. The KINO: The Civil Polity. Source: ‘Aha Aloha ‘Āina.⁴³³

managing islands. The kino became an embodied way to think about managing and governing the Hawaiian islands, without instituting liberal mechanisms for democratic governance like Na‘i Aupuni. During an ‘Aha Aloha ‘Āina workshop in Hilo on Hawai‘i island, po‘e aloha ‘āina Lākea Trask, who testified against federal recognition in Chapter 2, explained the historical significance and contemporary importance of Kino Kālainimoku.⁴³⁴ When students at the University of Hawai‘i in Hilo organized the

⁴³³ Ibid.

⁴³⁴ Ibid.

Movement for Aloha ‘Āina (MAA), they turned to David Malo’s seminal text *Hawaiian Antiquities* for mo‘olelo on Hawaiian systems of governance.⁴³⁵ More than unearthing the idea of kino, Trask said that the kino found them. Malo wrote, “The word kalaimoku related to the civil polity, or government, of the land. The government was supposed to have one body (kino).”⁴³⁶ As an older configuration of government, ‘Aha Aloha ‘Āina adapted it and advanced Kino Kālainmoku. “The locality of traditions does not have to be static, fixed, or marked as a moment in time that has passed,” Mishuana Goeman asserts, “rather, traditions migrate through time, ideas, and places.”⁴³⁷ Breaking the divide between categories of “traditional” and “modern,” this system of governance has four representative parts. The first part represents the po‘o (head), which positions the Mō‘ī and ‘Āina at the head of government. Trask elaborated that the last Mō‘ī of the Hawaiian Kingdom, Lili‘uokalani, would remain at the po‘o alongside Papahānaumoku, our Earth Mother, and the ‘āina of Hawai‘i. This reiterated a perspectival shift to code the lāhui not necessarily as a *Kingdom* but more so a *Queendom*. The second part signifies the lima (arms) with Kahuna and Kālainmoku, the spiritual, cultural leaders and political leaders, respectively. The third part symbolizes the wāwae (feet). In particular, this is emblematic of two groups: Nā Koa as well as Mahi‘ai and Lawai‘a. Nā Koa are on-the-‘āina protectors of the people and nation. Mahi‘ai and Lawai‘a are the farmers and fisherman, those that cultivate the ‘āina and that which feeds. The fourth part is the māno wai (circulatory system) and represents communication, networking, and media and

⁴³⁵ David Malo, *Hawaiian Antiquities: Mo‘olelo Hawai‘i* (Honolulu, HI: Bishop Museum Press, 1987).

⁴³⁶ *Ibid.*, 249.

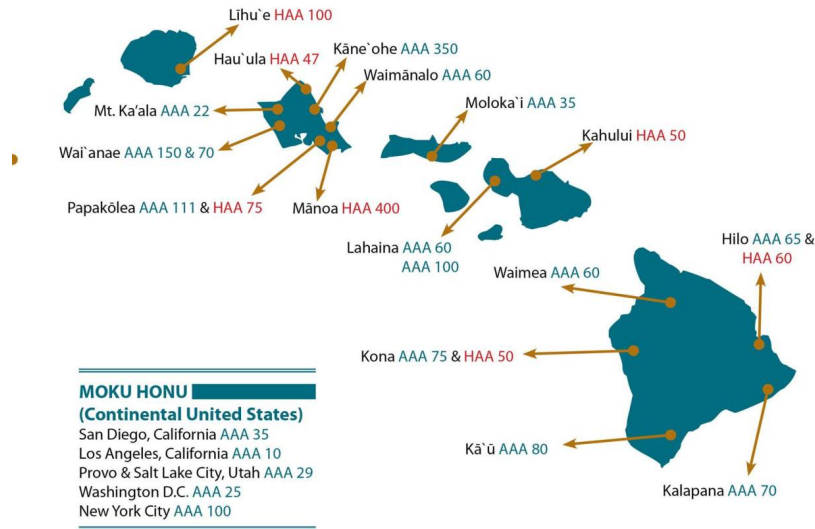
⁴³⁷ Mishuana Goeman, *Mark My Words: Native Women Mapping Our Nations* (Minneapolis, MN: University of Minnesota Press, 2013), 133.

technology specialists. Kānaka Maoli participating in Kino Kālaimoku are not siloed into a single part or one representative role. Rather, multiple roles within various parts can be performed within this structure of governance. Oftentimes Kānaka Maoli perform all of them, according to Trask, since each makes up the kālaimoku but also the kino—po‘o, lima, wāwae, and māno wai—of Kānaka Maoli.

‘Aha Aloha ‘Āina became transoceanic and included off-island Kanaka ‘Ōiwi in the diaspora. From October 2015 until November 2015, there were 2,289 total attendees of the meetings, panel presentations, and workshops put on by ‘Aha Aloha ‘Āina, including the early Hālāwai Aloha ‘Āina (see figure 17). This number was astounding and much larger than the number of delegates, whom were unelected, attending Na‘i Aupuni’s ‘Aha. ‘Aha Aloha ‘Āina participants were informed about the coalition’s two declarations and educated on Kino Kālaimoku. ‘Aha Aloha ‘Āina sincerely integrated the geontology of aloha ‘āina into imagining and practicing ea in a way that sidestepped state-determined nation-building for federal recognition. One vivid example was an emphasis on holding meetings on moku honu (turtle island), the continental United States. These meetings were held in six major cities across four different states. There were a total of 199 attendees, which consisted of Kānaka Maoli that were off-island in the diaspora as well as non-Kanaka Maoli people. This was uniquely dissimilar to how Na‘i Aupuni’s ‘Aha operated. For instance, there were delegates from the American continent that attended and participated in Na‘i Aupuni’s ‘Aha. However, the numbers were much lower than ‘Aha Aloha ‘Āina, and non-Kanaka Maoli were never targeted educational

ATTENDANCE TOTALS

Hālāwai Aloha 'Āina (HAA) & 'Aha Aloha 'Āina (AAA)



TOTAL ATTENDEES: 2,289*

*From October 2015 through November 2016

*Does not include viewership count of 'Aha and Hālāwai sessions posted online and televised



Figure 17. 'Aha Aloha 'Āina attendance totals. Source: 'Aha Aloha 'Āina.⁴³⁸

outreach like the meetings that 'Aha Aloha 'Āina hosted on moku honu. The alternative convention for Kanaka Maoli nation-building traveled to the American continent to reach Kanaka 'Ōiwi off-island and rally allies. 'Aha Aloha 'Āina crossed the waters of the Pacific Ocean to discuss nation-building with Kānaka Maoli on other islands, not just O'ahu like Na'i Aupuni, and even traveled to America to do so. This is what genuine nation-building looks like. 'Aha Aloha 'Āina's coalitional work offered a model for Kanaka Maoli nation-building that centered aloha 'āina to counter state-determined

⁴³⁸ "'Aha Aloha 'Āina,' 'Aha Aloha 'Āina.

nation-building for federal recognition. The alternative convention was organized by Kanaka Maoli activists who offered, what Maile Arvin has termed, regenerative refusals,⁴³⁹ integrating political refusal with the regeneration of Indigenous life and governance, which I suggest presented new gifts of sovereignty.

Na‘i Aupuni canceled the ratification referendum of the Constitution of the Native Hawaiian Nation; it was a critical victory for ‘Aha Aloha ‘Āina. Nevertheless, former delegates of Na‘i Aupuni’s ‘Aha, as a group of Kānaka Maoli that claim to not be working with the settler-state, are currently working to raise funds in order to hold a private ratification referendum that could enable the Native Hawaiian Nation to federally recognized. The threat of colonial dispossession in Hawai‘i has ballooned further through settler colonial capitalism in the struggle against astronomy industry development.

⁴³⁹ Maile Arvin, *Regenerative Refusals: Against the Logic of Possession Through Whiteness in Hawai‘i and Polynesia*, video of public talk, 49 minutes and 35 seconds, October 11, 2017, <http://www.youtube.com/watch?v=dHKzxpK8FWA>.

Chapter 5

The Neoliberal Crisis of the Thirty Meter Telescope

In a *Los Angeles Times* article published on March 18, 2001, professor of astronomy at the California Institute of Technology Richard Ellis opined, “It annoys me to see astronomers portrayed as tyrants who come in to exploit Mauna Kea. That’s very unfair.”⁴⁴⁰ He retorted, “We’re searching for truth and knowledge, the kinds of things that have motivated countries for centuries. We don’t need to apologize.”⁴⁴¹ Ellis’ exasperation regarding opposition to development of the astronomy industry at Mauna Kea was not new, nor was his unapologetic position that the pursuit of truth and knowledge has been a fundamental feature for state operations of imperialism and colonialism. The Thirty Meter Telescope (TMT) is proliferating this legacy in Hawai‘i after more than 50 years of opposition to developing the astronomy industry at Mauna Kea, a sacred mountain to Kānaka Maoli also known as Mauna a Wākea on Hawai‘i island. When efforts to construct the TMT ramped up in 2015 but were stopped by Kānaka Maoli, the scientific discourse to rationalize astronomy on Mauna a Wākea shifted. At the time, a young wahine came forward in support of the TMT. Aspiring to become a professional astronomer, Mailani Neal said, “Why not put this monumental telescope that’s going to be a worldwide honor in Hawaii? I think it’s one of the greatest

⁴⁴⁰ Usha Lee McFarling, “Science, Culture Clash Over Sacred Mountain,” *Los Angeles Times*, March 18, 2001, <http://www.latimes.com/archives/la-xpm-2001-mar-18-mn-39418-story.html>.

⁴⁴¹ Ibid.

ways to raise Hawaiian culture and show it to the world.”⁴⁴² Neal proclaimed that Hawai‘i is a suitable location for the TMT because the international attention on the telescope would garner global honor for Hawai‘i. This argument suggested that Hawaiian culture would be elevated through the globalization of astronomy. Extending this rationale, Mauna a Wākea became discussed as a place for the world. Harry Kim, the Mayor of Hawai‘i County where the mountain is located, reflected, “I believe that Mauna Kea can be a place of a pursuit of knowledge to make us a better people and better stewards of the land. Mauna Kea can be or should be a monument for the world for peace on earth.”⁴⁴³ These are three distinct yet corresponding discourses that have been produced and circulated to justify construction of the TMT at Mauna a Wākea.

In this final chapter, I investigate the political economy of the TMT, which is a development project for the astronomy industry at our sacred mountain Mauna a Wākea in Hawai‘i. I track the shifting political economy that organizes institutional and individual rationale for TMT. In particular, I look at the production of social relations for selling TMT. Doing so, this chapter addresses a few questions: How has the proposed construction of TMT been promoted and sold?; In what ways have Kānaka Maoli challenged and stopped the TMT from being built by refusing to buy into multiple forms of liberalism? Critiquing the TMT’s political economy, I make a few main arguments. First, the TMT is animated through scientific liberalism, which established a foundational

⁴⁴² Tom Callis, “HPA Senior Starts Pro-TMT Petition,” *Hawai‘i Tribune-Herald*, April 16, 2015, <http://www.hawaiitribune-herald.com/2015/04/16/hawaii-news/hpa-senior-starts-pro-tmt-petition>.

⁴⁴³ Rick Daysog, “Big Island mayor seeks compromise to break TMT deadlock,” *Hawaii News Now*, June 29, 2017, <http://www.hawaiinewsnow.com/story/35785260/tmt-protestors-oppose-big-island-mayor-harry-kims-mauna-kea-cultural-park>.

order and ideology of liberalism for astronomy industry development at Mauna a Wākea. Aiding the liberal power of scientific knowledge production, I suggest secondarily that liberal multiculturalism emerged as a tactic to incorporate Kanaka ‘Ōiwi culture into representations of TMT. When liberal multiculturalism failed to absorb ‘Ōiwi Indigeneity as a strategy to build the TMT, another approach bloomed. Third, with the TMT promising economic and educational opportunities in Hawai‘i, neoliberal multiculturalism exploded as a way to sponsor and encourage construction of TMT. Unique and interrelated, these are TMT’s liberalisms. As corporate, international, and state incentives to build TMT linger, interrogating the political economic rationale for TMT is a necessary and pressing task. This is exceedingly true given that nagging desires persist to begin building the telescope observatory as soon as possible.

There are three primary sections in this chapter. In the first, I delineate my approach to the political economy of TMT by tracing Jodi Melamed’s framework to liberalism. Her framework on official US state antiracisms, representing difference to destroy it, offers a historically materialist genealogy and conceptual orientation for my analysis. In the second, I analyze public relation documents, management plans, a petition, and news articles that promote TMT, as well as complementary data like State of Hawai‘i law, policy, and court cases to sketch the ways that scientific liberalism enlisted liberal multiculturalism and then consolidated under neoliberal multiculturalism. I interrogate TMT’s political economy to critique how liberalism transforms to coerce subjects, subdue resistance, and rationalize construction of the massive telescope complex at Mauna a Wākea. In the third and final section, I examine how Kanaka ‘Ōiwi refusals of astronomy industry development interrupt the neoliberalism of TMT and

wonderfully disrupt US settler sovereignty in Hawai‘i. I close the chapter with some preliminary thoughts on the neoliberal crisis within settler states of exception.

In Chapter 4, I contend that the political economies of scientific liberalism, liberal multiculturalism, and neoliberal multiculturalism, which have transformed over time through settler colonial capitalism in Hawai‘i, work uniquely but in concert to rationalize construction of the TMT. Yet, Kanaka Maoli refusals of TMT, through diverse kinds of legal activism and direct-action blockades, throw it into a financial crisis that disrupts the temporality of the development and, ultimately, exposes the precariousness of the US settler-state in Hawai‘i as it tries to exercise settler sovereignty through astronomy industry development.

Represent and Destroy

In *Represent and Destroy*, Melamed historicizes and theorizes the emergence of liberalism,⁴⁴⁴ which provides conceptual tools to analyze the liberalisms of TMT. For Melamed, a new order of racial capitalism was born out of geopolitical consolidations throughout World War II and the Cold War. It was a time of global crisis for white supremacy, exposing its connections across European fascism, racial segregation, and colonial rule. “White supremacy,” she writes, “had provided unification for the political, economic, and ideological structures of colonial capitalist modernity, and its loss of credibility as a racial discourse and a racial order also ruptured this world-historical formation.”⁴⁴⁵ What resulted was a shift from the allegedly explicit racism of white supremacy to an “antiracist, liberal-capitalist modernity determined by and shaping the

⁴⁴⁴ Jodi Melamed, *Represent and Destroy: Rationalizing Violence in the New Racial Capitalism* (Minneapolis, MN: University of Minnesota Press, 2011).

⁴⁴⁵ *Ibid.*, x.

conditions of U.S. global ascendancy.”⁴⁴⁶ The global goal of US hegemony required restructuring political economic power, in the wake of international liberation movements, to produce a liberal edict that could claim and be identified as antiracist. Liberalism became a political economic regime and ideology to address overt forms of racism through performances of antiracism. When the US claimed leadership of transnational capital in the beginning stages of the Cold War, it ushered in an official state-sanctioned antiracism that promised equality, freedom, and justice.

Melamed demonstrates racial liberalism, throughout the 1940s and 1960s, inaugurated fresh forms of violence. Claiming to combat the racisms of white supremacy, liberalism weaponized race while disassociating racial difference from its material conditions. As a concept, liberalism helps me to think through how racialized violence is structured and exacted. Melamed turns to James Baldwin. Examining his novel *Uncle Tom’s Cabin*, she suggests Baldwin critiques the race novel, or novels coded non-white for their authors, genres, plots, narratives, and characters, insofar as they established ways of knowing that allowed white subjects to learn, confirm, and sympathize with ideas about racial difference. This functioned to excuse white subjects, consuming such cultural technology, from exacting racism. Commenting on protest novels detailing African-American resistance, Baldwin illustrates the crux of racial liberalism. He says, “‘As long as such books are being published,’ an American liberal once said to me, ‘everything will be alright.’”⁴⁴⁷ Such argumentation posits that the mere production, distribution, and consumption of racial difference could resolve racism. Race novels

⁴⁴⁶ Ibid.

⁴⁴⁷ James Baldwin, *Notes of a Native Son* (Boston: Beacon Press, 1983), 19.

established an epistemological system that apprehended racial formations to serve whiteness, whereas the protest novel incorporated racialized resistance into the progressive machinery of postwar American modernity for US global ascendancy. The effect was an absorption of antiracism into US nationalism, producing the liberal white US citizen-subject as distinct from their prejudiced and intolerant counterpart, which ultimately preserved and hid the white power emanating from white supremacy. This is the historical-material process wherein representations (of race) could destroy (racial difference). It is destruction via normative violence, “whereby legitimate violence has been increasingly exercised through norms that impose legibility and illegibility and attach punishments to transgressions of norms.”⁴⁴⁸ Melamed’s antiracist critique of capitalism and anticapitalist critique of racism herein solicits queer of color criticisms on normativity. She argues, “I propose that official antiracisms—the freedoms they have guaranteed, the state capacities they have invented, the subjects they have recognized, and even the rights they have secured—have enabled the normalizing violences of political and economic modernity to advance and expand.”⁴⁴⁹ Melamed’s conceptualization of liberalism, as an exceptionally antiracist imperative, is useful for my analysis of the TMT, wherein liberalism in Hawai‘i employs similar yet different techniques of racialization in service to astronomy development.

When racial liberalism ruptured in the 1960s because of civil rights activism, and when the US could not secure identification as the global savior with decreasing tensions from the Cold War, liberalism gave way to multiculturalism. The regime of

⁴⁴⁸ Melamed, *Represent and Destroy*, 4.

⁴⁴⁹ *Ibid.*, 5.

liberal multiculturalism “incorporated and abstracted the materialist antiracisms of the new race-based movements.”⁴⁵⁰ As emerging social movements across the world radically politicized racial difference for activism, the limits of racial liberalism were revealed. Liberal multiculturalism, during the 1980s and 1990s, recalibrated those limitations. US universities played a substantial role in doing so. At American universities, Melamed contends, “Knowledge about minoritized difference—especially racial and cultural difference—was made to work for post-Keynesian social and economic policies.”⁴⁵¹ Such university regulation and discipline included training students to be multicultural citizens, commodifying cultures, managing cross-cultural solidarities, and manufacturing differential orders of humanity. Institutional diversity became universalized as progress. A new market surfaced for racialized cultural property, and multicultural books published in the canon of literature stood-in for material activism. This “did not antagonize but furthered racial capitalism.”⁴⁵² As the second stage of official state antiracism, liberal multiculturalism masqueraded institutionalized diversity as a mechanism for biopolitical management, ideological control, and unrelenting US hegemony. For my analysis, liberal multiculturalism manufactures conditions of possibility for TMT to appropriate, incorporate, and share not just ‘Ōiwi Indigeneity but also Hawai‘i in a process that suppresses opposition and encourages astronomy industry development.

In the 1990s, under the weight of capital’s rapid globalization, liberalism mutated into neoliberal multiculturalism. Melamed describes that neoliberal sovereignty

⁴⁵⁰ Ibid., 27.

⁴⁵¹ Ibid., 31.

⁴⁵² Ibid., 37.

dominated at this time as an economic system that integrated governance of biological and social life on the centrality of markets rather than nation-states. Neoliberal sovereignty “not only indicates a constellation in which governments function in the interest of capital maximization but also signifies that neoliberal calculations have come to govern biopolitical life, to rationalize, engineer, and organize forms of humanity.”⁴⁵³ In this view, neoliberalism exercises power and force over the rationality of social practices. Melamed suggests examples of these practices are resource extraction, dispossession, building infrastructure, lending, and land privatization. Building on this, astronomy industry development is yet another kind of this social practice. As the third chapter of liberal antiracism, she claims, “*Neoliberal multiculturalism* is my term for the unifying discourse that neoliberalism has used to exert a monopoly of rationality over the practices that impact its constitution.”⁴⁵⁴ She crucially goes on to identify, “Whereas in the previous two phases official antiracisms were sutured to US governmentality and leadership for global capitalism, in this third phase official antiracism has attached to neoliberal sovereignty, which increasingly incorporates segments of US governmentality and economic activity.”⁴⁵⁵ Multiculturalism operates as a spirit of the financialization of everything. In this configuration, the economy is believed to be the horizon of freedom from racism and other forms of oppression. Economic freedom appears to be justice. “Concepts previously associated with 1980s and 1990s liberal multiculturalism, such as *openness*, *diversity*, and *freedom*, have now been recycled, and now *open societies* and *economic freedoms* (shibboleths for neoliberal measures) and *consumerist diversity*

⁴⁵³ Ibid., 39.

⁴⁵⁴ Ibid., 41, original emphasis.

⁴⁵⁵ Ibid.

signify multicultural rights for individuals and for corporations,” according to Melamed.⁴⁵⁶ Like liberal multiculturalism, universities were an institutional site wherein neoliberal multiculturalism thrived. For instance, the university fabricated a citizenry of multicultural global denizens. Extending ideas about the race novel and protest novel, Melamed asserts that this new regime of antiracism is what animated global literature as a field for the discipline of literary studies, whereby neoliberal subjects can consume difference for the purpose of assigning racialized, gendered, and sexualized value to expand capital across the planet. Neoliberal multiculturalism “has valued its beneficiaries as multicultural, reasonable, law-abiding, and good global citizens and devalued the dispossessed as monocultural, backward, weak, and irrational—unfit for global citizenship because they lack the proper neoliberal subjectivity.”⁴⁵⁷ As the final official regime and ideology of state antiracisms, neoliberal multiculturalism is an important concept to orient my analysis to how the TMT gets rationalized through expenditures, the market, and other economic determinisms, while also packaged for global citizens and the promotion of planetary peace.

TMT’s Liberalisms

In the first part of this section, I claim that the founding political economy of TMT is scientific liberalism. The Thirty Meter Telescope International Observatory (TIO) organized as a nonprofit corporation in 2014 to construct a high industrial telescope complex at Mauna a Wākea. Attempting to be built by the TIO, TMT would be a wide-field, alt-az Ritchey-Chrétien telescope with a 30-meter diameter segmented

⁴⁵⁶ Ibid., 42-43, original emphasis.

⁴⁵⁷ Ibid., 44.

primary mirror. As a result, the observatory complex requires a significant amount of space. “In modern astronomy,” says Paul Coleman, a Kanaka Maoli astrophysicist for the University of Hawai‘i’s Institute for Astronomy, “you must go with the biggest telescope you can build to the tallest mountain you can find. That is the defining thing for astronomical growth.”⁴⁵⁸ Proposals for TMT estimate that it would be 18-stories high at 184-feet in height, extend 20-feet down into the mountain, and have a footprint of five acres.⁴⁵⁹ The development would excavate 64,000 cubic yards at the northern plateau and also add a 3,400-foot-long road.⁴⁶⁰ The fact is that this is a large project. TIO purports that TMT would be the largest telescope in the world. With 21 telescopes and 13 observatories already atop Mauna a Wākea, TMT would add to growing amounts of waste by producing 120-250 cubic feet of solid waste every week, which will be stored, along with hazardous chemical materials, in a 5,000-gallon underground storage tank.⁴⁶¹ Despite these deleterious ecological impacts identified as “substantial, significant, and adverse” in a 2010 Environmental Impact Statement by the University of Hawai‘i (UH), constructing the TMT at Mauna a Wākea has been rationalized because of the mountain’s value to science.

The dominant, western science community desires Mauna a Wākea as an optimal site for producing knowledge about astronomy, astrophysics, and cosmology. The

⁴⁵⁸ Adrienne LaFrance, “What Makes a Volcano Sacred?” *The Atlantic*, October 30, 2015, <http://www.theatlantic.com/technology/archive/2015/10/what-makes-a-volcano-sacred/413203>.

⁴⁵⁹ See “FACT SHEET: Massive 18-story Telescope Complex Proposed for Mauna Kea,” *KAHEA: The Hawaiian-Environmental Alliance*, accessed August 30, 2017, <http://kahea.org/issues/sacred-summits/sacred-summits-documents/fact-sheet-thirty-meter-telescope-tmt>.

⁴⁶⁰ *Ibid.*

⁴⁶¹ *Ibid.*

mountain offers “the best window on the universe.” TMT’s General Information Brochure states, “To capture the sharpest images and produce the best science, astronomers need more than an extraordinary telescope; they also need an equally extraordinary location with just the right atmospheric qualities.” Mauna a Wākea is rendered extraordinary because of its location with atmospheric settings conducive for viewing the universe. Not only is the mountain valued for its ability to become technologized, as a window to peer into the universe, but it is valuable specifically for the conditions necessary to erect technological infrastructure for scientific knowledge production. The brochure continues, delineating the rationale for pursuing Mauna a Wākea as the preferred build-site, and contends, “After a rigorous five-year campaign that spanned the entire globe, TMT scientists found such a site, Mauna Kea, a dormant volcano in Hawaii that rises nearly 14,000 feet above the surface of the Pacific Ocean. This site, which is above approximately 40 percent of Earth’s atmosphere, has a climate that is particularly stable, dry, and cold. All of which are important characteristics for clear seeing. This mountain in Hawaii is also home to some of today’s most powerful telescopes, including the Gemini North Telescope, the Canada-France-Hawaii Telescope, the Subaru Telescope, and TMT’s forerunners the twin Keck telescopes.” The elevation, climate, and overall environment of the mountain appear ideal and exceptional for astronomical inquiry. A “dormant volcano,” Mauna a Wākea gets normalized as asleep, inanimate, and lifeless, providing a ripe stage for discovering and observing life elsewhere. Moreover, this passage suggests since there are other telescopes already built at the northern plateau of Mauna a Wākea that the newer, larger, and more powerful TMT ought to be manufactured. The current technological infrastructure justifies further

development in the name of science in general and astronomy in specific. This is the context in which Richard Ellis, whom the prefaced this chapter, can shamelessly proclaim, “We’re searching for truth and knowledge, the kinds of things that have motivated countries for centuries. *We don’t need to apologize.*” This commentary bluntly demonstrates a foundational premise of TMT’s scientific liberalism. It is the possessiveness and impenitence of white supremacist authority, as Aileen Moreton-Robinson and Linda Tuhiwai Smith have explored.⁴⁶²

TMT made a liberal pact to ameliorate scientific progress, which masks and rationalizes various forms of violence. The project promises to “unlock new frontiers.”⁴⁶³ The unlocking of new frontiers signifies an allegedly successful conquest of Hawai‘i, an old frontier they allude, as well as the potential to open new frontiers throughout the universe. This is a pernicious logic of Euro-American exploration that Byrd refers to as “imperial planetarity,” or planetary imperialism.⁴⁶⁴ The promise mobilizes Frederick Jackson Turner’s “frontier thesis” that was and still is weaponized for the dispossession, elimination, and genocide of Native Americans.⁴⁶⁵ Unlocking new frontiers in the universe obscures how the opening and closing of frontiers has been historically sutured to spectacular forms of violence against Indigenous communities.⁴⁶⁶ Wielded as rationale

⁴⁶² Aileen Moreton-Robinson, *The White Possessive: Property, Power, and Indigenous Sovereignty* (Minneapolis, MN: University of Minnesota Press, 2015); Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous People* (London: Zed Books, 1999).

⁴⁶³ Ibid.

⁴⁶⁴ Byrd, *The Transit of Empire*, xx.

⁴⁶⁵ Frederick Jackson Turner, “The Significance of the Frontier in American History,” *Report of the American Historical Association* 1, no. 1 (1893): 199-227.

⁴⁶⁶ See Ned Blackhawk, *Violence over the Land: Indians and Empires in the Early American West* (Cambridge, MA: Harvard University Press, 2006); Nicole Guidotti-Hernández, *Unspeakable Violence: Remapping the U.S. and Mexican National*

for TMT, the spectacular violence from the American frontier diffuses across the Pacific Ocean to Mauna a Wākea. The TMT's liberal promise of scientific progress transmits US empire through the abjection of Indian Country and Indianness. Although seen as a contemporary phenomenon, the TMT is co-constitutive of a techno-scientific order that has always already attached liberalism to scientific knowledge production in a process that restructures state power and reconfigures its exercise of force. For instance, Byrd posits, "Transit refers to a rare astronomical event, the paired transits of Venus across the sun, that served in 1761 and again in 1769 as global moments that moved European conquest toward notions of imperialist planetarity that provided the basis for Enlightenment liberalism. The imperial planetarity that sparked scientific rationalism and inspired humanist articulations of freedom, sovereignty, and equality touched four continents and a sea of islands in order to cohere itself."⁴⁶⁷ Seeking to measure the transit of Venus and universalize Enlightenment science as the first arrangement of liberalism, astronomy industry development emerged historically through the global dispossession and elimination of Indigenous people by imperial nation-states. This is the structural context informing how the scientific liberalism organizing TMT is connected to settler-state power. When the State of Hawai'i sanctions the TMT, it does not just flag how the state entity constitutes itself on stolen lands via colonial dispossession. It demonstrates further that support of astronomy industry development proliferates settler colonial power so as to secure its institutionalization in the formation of Hawai'i as a US settler-state.

Imagineries (Durham, NC: Duke University Press, 2011); Wolfe, "Settler Colonialism and the Elimination of the Native."

⁴⁶⁷ Byrd, *The Transit of Empire*, xx-xxi.

Settler-state power rides the liberalism of scientific progress in order to develop civil society but also to conceal the TMT's violence on the 'āina and arm it with police force.

Aside from utilizing scientific liberalism as a smokescreen to conceal white supremacy, transmission of the American frontier, and settler-state violence of astronomy industry development, the assault against Kānaka Maoli has also been censored. TMT's promise of scientific progress for societal development eschews violence done to Hawai'i, Mauna a Wākea, and 'Ōiwi subjects. Specific scientific objectives reveal the desire for liberal progress as a calculated camouflage. The project states, "As our level of knowledge grows, the next level of questions that arise require facilities with even greater capabilities to gather the observations needed to answer them."⁴⁶⁸ The TMT claims to provide new observations for every field in astronomy and astrophysics. There are "key science areas" being targeted, "Spectroscopic exploration of the "dark ages" when the first sources of light and the first heavy elements in the universe formed; Exploration of galaxies and large-scale structure in the young universe, including the era in which most of the stars and heavy elements were formed and the galaxies in today's universe were first assembled; Investigations of massive black holes throughout cosmic time; Exploration of planet-formation processes and the characterization of extra-solar planets; Discovery observations that push into the terrestrial-planet regime."⁴⁶⁹ Traversing tenses, from future "new frontiers" to past "dark ages," TMT desires developing space (i.e., Mauna a Wākea) in order for deserving subjects (i.e., white settlers) to develop through time toward modernity. Indigenous people have been restricted from progressing into a

⁴⁶⁸ "Scientific Themes," *Thirty Meter Telescope*, accessed March 6, 2018, <https://www.tmt.org/page/science-themes>.

⁴⁶⁹ Ibid.

modern future since Indigeneity is temporally bracketed to an authentic realm of the past. “Relegated to the ‘dark ages’ of tradition,” Iokepa Casumbal-Salazar explicates, “Native peoples appear as the agonistic menace of the modern scientific state.”⁴⁷⁰ Additionally, there are topical goals for TMT: fundamental physics, cosmology, early universe and galaxy formations, intergalactic medium, supermassive black holes, milky way and other nearby galaxies, stars, stellar physics, interstellar medium, formations of stars and planets, exoplanets, solar system, and time domain science.⁴⁷¹ These are technological advancements and scientific objectives that come to symbolize progress for civil society. Put another way, the techno-scientific order produced by the TMT is not a material form of progress, much like Melamed suggests that reading race novels and protest novels is not materially antiracist. Rather, the advancements and objectives of TMT stand-in as symbols of progress in a signification system that imbues technological innovation paired to scientific knowledge with supreme value. This is a crucial distinction because it opens up analysis to the semiotics of scientific liberalism, which ideologizes the importance of TMT in a discursive process that tries to mask and simultaneously works to exact racialized, gendered, and sexualized colonial violence against Kānaka Maoli. For example, a colossal telescope to be erected on Mauna a Wākea without affirmative consent, the TMT is a phallic edifice of white supremacist and heteropatriarchal settler colonialism, and Kānaka Maoli that oppose it are marked hordes of backward, anachronistic, and primitive subjects that stand in the way of its so-called progress. This

⁴⁷⁰ Iokepa Casumbal-Salazar, “A Fictive Kinship: Making ‘Modernity,’ ‘Ancient Hawaiians,’ and the Telescopes on Mauna Kea,” *Journal of the Native American and Indigenous Studies Association* 4, no. 2 (2017): 2.

⁴⁷¹ “Scientific Themes,” *Thirty Meter Telescope*.

normative violence produced through making subjects (il)legible is a unique animus to represent and destroy Kānaka Maoli. Casumbal-Salazar adds, “The urgency for another telescope is less about progress or the human condition than maintaining control over land and confining Native self-determination to a permanent state of deferral.”⁴⁷² Casumbal-Salazar lays out an astute critique of TMT’s scientific liberalism. “Inclusion might seem to remedy the problem of exclusion; however,” he says, “the problem is not exclusion, but instead how settler subjecthood comes to signify humanity and draws the limits of modernity from which Kanaka ‘Ōiwi are in permanent exile.”⁴⁷³ Scientific liberalism masquerades inclusion as a solution to perceived exclusion. “The problem for Hawaiians is not one of access to the field of astronomy or the legal process,” he contends, “but how Western law, science, and the state together control the ways humanity is imagined in the first place.”⁴⁷⁴ In the scientific liberalism of TMT, not only are Kānaka Maoli dehumanized but the destruction of Mauna a Wākea and brutalization of Hawai‘i attempt to be hidden yet are completely justifiable for progress.

As technological innovation and scientific advancement alone failed to successfully sell the TMT project, scientific liberalism enlisted multiculturalism, which I map out here in the second part of this section. Rather than relying simply on including Kānaka Maoli, the political economy of TMT morphed to incorporate ‘Ōiwi Indigeneity within the project, claim cultural belonging, and share Mauna a Wākea to the world. Instead of using the illusion of progress resulting from technology and science, multiculturalism is a cunning ideology that enables the TIO corporation and its

⁴⁷² Casumbal-Salazar, “A Fictive Kinship,” 2.

⁴⁷³ Ibid, 19.

⁴⁷⁴ Ibid.

proponents to make claims to justice by institutionalizing and performing diversity. Extending Melamed's incisive critique of racial capitalism to account for settler colonialism, the TMT symbolically represents 'Ōiwi Indigeneity to materially dispossess, eliminate, and destroy Kānaka Maoli. These moves demonstrate that the liberal multiculturalism of the TMT is weaponized to promote astronomy industry development. Put another way, institutions and individuals have employed liberal multicultural tropes, narratives, and discourses as methods to market TMT construction.

The TMT project incorporates Indigeneity. In "Voices and Visions of Mauna Kea: Mauna Kea Science Reserve Master Plan and Implementation Process Summary," published by UH in 2000, astronomy industry development on Mauna a Wākea is clothed in Kanaka 'Ōiwi perspectives, beliefs, and bodies. On the cover page of the Master Plan, there is a quotation from Kalākaua where he states, "It will afford me unfeigned satisfaction if my kingdom can add its quota toward the successful accomplishment of the most important astronomical observation of the present century and assist, however humbly, the enlightened nations of the earth in these costly enterprises." Examining the use of Kalākaua, Casumbal-Salazar corrects that this message came from an 1874 letter, welcoming a British expedition to Hawai'i for the purpose of observing the transit of Venus. However, Kalākaua was not advocating large ground-based observatories. In fact, Casumbal-Salazar suggests, "He was supporting four or five portable telescopes in Honolulu, none bigger than ten feet long, and all temporarily positioned for the single event. No permanent telescope was proposed for Mauna Kea."⁴⁷⁵ In UH's Master Plan, this important context is abstracted to show that Kānaka Maoli have historically

⁴⁷⁵ Ibid., 23.

supported astronomy industry development in order to hail readers to apprehend and consume it as a form of cultural difference. TMT gets represented as a product of Kalākaua’s advocacy, which grossly manufactures presumptions that Kalākaua would approve of TMT construction. That said, the TIO, whom received a sub-lease for the land on Mauna a Wākea from UH who holds the master lease, continues this process of playing Hawaiian. Recently, the TIO’s official website proudly displayed an image of British astronomer George L. Tupman operating one of the telescopes commissioned by Kalākaua in 1874. Despite being a small, portable telescope, this visual makes Kalākaua and his telescope intelligible as a way to appropriate ‘Ōiwi culture for promoting the TMT as institutionally diverse and culturally sensitive.

In the wake of this, a fictive kinship formed. Casumbal-Salazar argues that TMT, and US universities that sponsor the project, conjures up a fictional kinship. While it is true that “Hawaiians become suspect and subject to institutional anti-Native racism yet fetishized as an archaeological remnant within multicultural society,”⁴⁷⁶ the TMT’s liberal multiculturalism identifies astronomers and Kānaka Maoli as *relatives*. As an ideology, it suggests that astronomers and Kānaka Maoli are not related through genealogy but vis-à-vis cultures of astronomical skill and expertise. This is why naturalizing astronomical aptitude as a characteristic of ‘Ōiwi cultural difference becomes crucial, in the first place. Looking back at the Master Plan, another quotation, proceeding Kalākaua’s line, is from Fredrick Chaffee who is a former director of the W. M. Keck Observatory on Mauna a Wākea. Extending Kalākaua’s so-called support for astronomy industry development, Chaffee’s quotation reads, “After all, the ancient

⁴⁷⁶ Ibid., 2.

Hawaiians were among the first great astronomers, using the stars to guide them among the islands in the vast Pacific, centuries before anyone else had developed such skill. Long before Europeans and mainlanders, Hawaiian astronomers were studying the heavens with awe and wonder, the same feelings that draw modern astronomers to study the heavens. At this very deep level, *I feel we are brothers and sisters.*” A few key implications arise from this passage and how it is deployed to compel construction of TMT. Casumbal-Salazar’s reading is incredibly instructive. “Chaffee’s statement imagines a fictive kinship that recodes dispossession as inheritance by inventing a temporal hierarchy that both racializes and genders difference,” he asserts, “[t]hrough comparison with ‘modern astronomers,’ the move at once recognizes *and* trivializes Kanaka ‘Ōiwi scientific achievements, rendered interesting but expired. The logic of this rhetoric imagines astronomers as heirs to Hawai‘i and Mauna a Wākea by constructing a modernity within a linear temporality in which ‘ancient Hawaiians’—‘long before’ and ‘centuries’ ago—are obsolete and thus inferior.”⁴⁷⁷ Complementing Casumbal-Salazar’s critique of the Chaffee quotation, I suggest the shift from scientific liberalism to liberal multiculturalism bolsters this fictive kinship. Scientific liberalism rearranges the semiotics of the TMT in a process that ideologizes notions of progress to hide and rationalize violence. These same scientific techniques of liberal power ideologize the relationship between modern astronomers and ancient Kānaka Maoli, and thereby conceal and cause the violence detailed by Casumbal-Salazar. The liberal multicultural political economy of TMT, however, is what targets kin relations. Attempting to incorporate Indigeneity through this relationship, the TMT becomes promoted and sold

⁴⁷⁷ Ibid., 22, original emphasis.

not just as institutionally diverse and culturally sensitive but also as maintaining familial ties to Mauna a Wākea, extended through the Indigenous belonging that Kānaka Maoli have to Hawai‘i. This is reminiscent of Judy Rohrer’s argument that settler subjects Indigenize themselves through racialized notions of Indigeneity to colonize Indigenous territories and resources.⁴⁷⁸ Astronomers stake a claim to Hawai‘i by racializing Kānaka Maoli as ancient, inferior, and vanishing kin in order to indigenize themselves by which to take white patriarchal possession of and rightfully continue developing Mauna a Wākea. However, Casumbal-Salazar claims, “No, Kanaka Maoli and astronomers are *not* ‘brothers and sisters’ within this fictive kinship that imagines the expropriation of Indigenous lands and desecration of sacred sites as a destiny and desire of the Hawaiian people.”⁴⁷⁹ But what happens when this fictive kinship appears real and tangible through TMT advocacy by Kanaka Maoli astronomers?

Magnifying the incorporation of Indigeneity and staking of claims to Mauna a Wākea, liberal multiculturalism is mobilized to share Hawai‘i with the world through the TMT. On April 13, 2015, Mailani Neal, the young wahine that I discussed in the introduction, created an online petition in support of TMT. In the wake of legal challenges and direct-action blockades against TMT, Neal’s petition galvanized support to counter opposition, especially as online petitions against TMT began emerging. Explaining her inspiration, she says, “I have created this document so that my belief, which I share with others, will be heard. I am an 18 year-old, Native Hawaiian girl in

⁴⁷⁸ Judy Rohrer, *Staking Claim: Settler Colonialism and Racialization in Hawai‘i* (Tucson, AZ: University of Arizona Press, 2016).

⁴⁷⁹ Casumbal-Salazar, “A Fictive Kinship,” 23, original emphasis.

high school with loving passion for astronomy and my culture.”⁴⁸⁰ Equipped with zeal for astronomy and being Kanaka Maoli, Neal complicates the fictive kinship. “She sees practicing astronomy on Maunakea as a way to connect with her wayfinding ancestors,” according to Tom Callis.⁴⁸¹ Neal later became a board member of Perpetuating Unique Economic Opportunities, a nonprofit organization that intervened as a legal party alongside UH and TIO for a contested case hearing regarding the TMT’s building permit in 2017. This illuminates how the project “adopted a multicultural model of inclusion, locating Hawaiians who believe ‘a seat at the table’ is better than having no say at all.”⁴⁸² To be clear, I am not claiming that Neal disproves or undoes the fictional kinship between astronomers and Kānaka Maoli. Instead, I suggest that Neal’s petition and her subject position issue a complicated foil, which does not counter critiques of fictive kinship but indeed exposes liberal multiculturalism’s impulse to represent and destroy.

Representations of ‘Ōiwi astronomers supporting TMT enhance the normative processes for destroying Mauna a Wākea and Kānaka Maoli. “I am Hawaiian. I know how it feels,” Neal observes, “It’s kind of a sad truth that so many sacred places have already been desecrated.”⁴⁸³ She goes on to suggest, “Why not put this monumental telescope that’s going to be a worldwide honor in Hawaii? I think it’s one of the greatest ways to raise Hawaiian culture and show it to the world.”⁴⁸⁴ For Neal, TMT offers

⁴⁸⁰ Mailani Neal, “We Support TMT,” *GoPetition*, April 13, 2015, <http://www.gopetition.com/petitions/we-support-tmt.html>.

⁴⁸¹ Tom Callis, “One mauna, many perspectives: Native Hawaiians discuss spiritual, cultural connections to Maunakea,” *Hawaii-Tribune Herald*, November 12, 2017, <http://www.hawaii-tribune-herald.com/2017/11/12/hawaii-news/one-mauna-many-perspectives-native-hawaiians-discuss-spiritual-cultural-connections-to-maunakea>.

⁴⁸² Casumbal-Salazar, “A Fictive Kinship,” 11.

⁴⁸³ Callis, “HPA Senior Starts Pro-TMT Petition.”

⁴⁸⁴ *Ibid.*

another iteration of development that desecrates sacred places to her own people. But she recodes the desecration and destruction of the mountain at the hands of astronomy industry development as an honor. It is a “worldwide honor” for the exportation and expropriation of ‘Ōiwi Indigeneity to “show it to the world.” The passage lucidly shows that since sacred places have already been desecrated, TMT should be constructed because it “raise[s] Hawaiian culture” to a global audience. In this sense, Mauna a Wākea is a gift that can be unwrapped and consumed, even if it is razed. In 2014, Governor Abercrombie, who advocated for state-determined Kanaka Maoli nation-building for federal recognition in the last chapter, claimed that the mountain is “Hawai‘i’s gift to the world.”⁴⁸⁵ This is not a gift of sovereignty that I am theorizing in this dissertation. Instead, Neal’s argument to build the TMT aligns with Abercrombie’s phrasing whereby both are structured by and bolster TMT’s liberal multiculturalism.

In the final part of this section, I show that the liberal multiculturalism of TMT transformed into neoliberal multiculturalism. Tracking TMT’s liberalisms is crucial for me to forge a political economic critique that considers conditions of possibility and points of rupture. My arguments here offer interventions in three particular ways. First, my political economic critique expands analysis of TMT in Hawaiian Studies. In Casumbal-Salazar’s unprecedented research on TMT, he tracks the formation of liberal multicultural discourses that propel settler subjectivities toward colonial-capitalist modernity. Liberal multiculturalism operates, in his claims, as an ideology not simply to build the TMT at Mauna a Wākea but also for settler colonial dispossession, elimination,

⁴⁸⁵ “2014 State of the State Address,” *C-SPAN*, accessed March 23, 2018, <http://www.c-span.org/video/?317351-1/hawaii-state-state-address>.

and replacement of Kānaka Maoli. His arguments are crucial for my own. However, Casumbal-Salazar does not explicitly consider the folding of neoliberalism into liberal multiculturalism. While he posits that “the alignment of state agencies, private capital, and big science suggests that the neoliberalization of governance in Hawai‘i, coupled with the ideology of liberal multiculturalism, operationalizes settler colonialism,”⁴⁸⁶ there is little elaboration on the process of how liberal multiculturalism coalesces with “the state’s neoliberal vision of Hawai‘i.”⁴⁸⁷ Second, my analysis of neoliberal multiculturalism extends current scholarship in Critical Indigenous Studies. Recent work on neoliberalism in the field has flourished. For example, Goeman discusses how neoliberal policies, like the North American Free Trade Agreement, consolidate global capital in ways that map settler colonial violence onto Indigenous subjects through individuation and individualism.⁴⁸⁸ In *Indigenous Encounters with Neoliberalism*, Altamirano-Jiménez offers an in-depth analysis of the neoliberalization of place, commodification of the environment, and violence against Indigenous women across the geographies of Canada and Mexico.⁴⁸⁹ It is no coincidence that these authors launch critiques of neoliberalism with Indigenous feminist theory. I follow this critically Indigenous feminist lead, applying their frameworks on neoliberalism to the geopolitical context of Hawai‘i. Third, I build on Melamed’s critique of racial capitalism. Although Melamed provides a vital conceptual framework to examine historically material transitions in liberalism, her work does not thoroughly interrogate how racial capitalism

⁴⁸⁶ Casumbal-Salazar, “A Fictive Kinship,” 12.

⁴⁸⁷ *Ibid.*, 13

⁴⁸⁸ Goeman, *Mark My Words*.

⁴⁸⁹ Altamirano-Jiménez, *Indigenous Encounters with Neoliberalism*.

can be animated by settler colonialism for neoliberalism's "accumulation through dispossession."⁴⁹⁰ Admitting that "indigenous people across the globe over the last forty years have experienced violences generated from the same underlying source, an economic system of accumulation through dispossession,"⁴⁹¹ Melamed eschews how neoliberal violence against Indigenous people has been conditioned vis-à-vis settler colonial capitalism, as Coulthard, Day, and I have ventured to show. Indeed, settler colonial capitalism underpins the TMT's neoliberal multiculturalism.

TMT possesses enormous funding from across the globe. The total estimated cost for the project is \$1.5 billion.⁴⁹² Funds have been pledged from an international group of institutions. They include the Gordon and Betty Moore Foundation, California Institute of Technology, University of California, National Astronomical Observatory of Japan, National Astronomical Observatories of the Chinese Academy of Sciences, Indian Astronomy Research Institutes, and Canadian government. This motley crew of funders is paying the bill for TMT. The international funding of TMT demonstrates a global financialization of the desecration and destruction of Mauna a Wākea, as a form of settler colonialism that partners US and Canadian settler-states while cajoling nation-states like Japan, China, and India. Indeed, neoliberalism has meant the worldwide financialization of Mauna a Wākea. On the mountain, settler colonialisms fuse under the pressure of neoliberal capitalism. In other words, settler colonization of Indian Country by the US

⁴⁹⁰ David Harvey, *A Brief History of Neoliberalism* (New York: Oxford University Press, 2005), 156.

⁴⁹¹ Melamed, *Represent and Destroy*, 182.

⁴⁹² Corey Haynes, "Hawaii Supreme Court revokes permit for massive telescope," *Astronomy Magazine*, December 3, 2015, <http://www.astronomy.com/news/2015/12/hawaii-supreme-court-revokes-permit-for-massive-telescope>.

federal government and settler colonization of First Nations by the Canadian Crown provide necessary capital for funding the TMT's violence against Hawai'i and Kānaka Maoli.

Mauna a Wākea has been thrust into an international market for astronomy industry development, commodifying the mountain for techno-scientific infrastructure in a process that requires the settler-state divest control to global capitalism. In 1968, the State of Hawai'i's Land Board issued a general lease to UH for the purpose of building a single telescope complex at Mauna a Wākea. Upon doing so, multiple telescope complexes began developing, and public protest emerged with claims that new development violated the initial general lease, especially as sub-leases were bestowed for building more observatories. After UH submitted an application in 2011 for a Conservation District Use Permit (CDUP) to acquire the appropriate permitting for building TMT, a petition was filed with the Board of Land and Natural Resources (BLNR) for a contested case hearing. However, the BLNR steamrolled ahead, approving the CDUP before holding the necessary contested case hearing. But on December 2, 2015, the State of Hawai'i Supreme Court ruled this was "putting the cart before the horse." A violation of due process, the decision invalidated the building permit and remanded the case back down to the BLNR to hold a new contested case hearing.⁴⁹³ This contested case hearing concluded on July 26, 2017 with the hearing's officer making a recommendation for the BLNR to approve the building permit for TMT.⁴⁹⁴ On September

⁴⁹³ Catherine Bauknight, "Hawaii Supreme Court Invalidates Thirty Meter Telescope's Permit for Mauna Kea," *Huffington Post*, December 14, 2015, http://www.huffpost.com/entry/hawaii-supreme-court-inva_b_8779624.

⁴⁹⁴ "Judge: Thirty Meter Telescope should be given OK to move forward," *Hawaii News Now*, July 26, 2017,

28, 2017, the BLNR voted in favor of granting a CDUP for TMT.⁴⁹⁵ The petitioners appealed and recently lost in Supreme Court.⁴⁹⁶ This brief legal history details how the settler-state has played a pivotal role in authorizing land leases, sub-leases, and building permits in order to legally sanction the project and accelerate the flow of global capital.

In return, the settler-state receives a secret weapon: international competition and globalization. David Harvey asserts that international competition and globalization “can be used to discipline movements opposed to the neoliberal agenda...If that fails, then the state must resort to persuasion, propaganda or, when necessary, raw force and police power to suppress opposition to neoliberalism.”⁴⁹⁷ The global market for astronomy industry development drives and dictates the rationality for governing what should occur atop the mountain, from the settler-state’s encouragement of TMT to its deployment of police forces to quell opposition. To date, there have been 59 unique arrests of protectors of Mauna a Wākea. This is an example of Melamed’s neoliberal sovereignty, which governs “on the belief that the market is better than the state at distributing resources and managing human life.”⁴⁹⁸ “If the market knows best,” Dian Million laments, “then governments should give capitalism room to work; nations should deregulate those social

<http://www.hawaiiensnow.com/story/35981511/judge-in-tmt-contested-case-hearing-recommends-project-move-forward>.

⁴⁹⁵ Jennifer Sinco Kelleher, “Telescope on land sacred to Native Hawaiians moves forward,” *Associated Press*, September 28, 2017, <http://www.apnews.com/3e745ac90fb14bfb96e223600979a01a>.

⁴⁹⁶ “Hawaii Supreme Court upholds building permit for Thirty Meter Telescope,” *NBC News*, October 31, 2018, <http://www.nbcnews.com/news/asian-america/hawaii-supreme-court-upholds-permit-thirty-meter-telescope-n926756>.

⁴⁹⁷ Harvey, *A Brief History of Neoliberalism*, 70

⁴⁹⁸ Melamed, *Represent and Destroy*, 39.

practices (state institutions and legislative measures) that seek to control the markets.”⁴⁹⁹ Elaborating these thoughts, Harvey writes, “Neoliberalism has become a hegemonic discourse with pervasive effects on ways of thought and political-economic practices to the point where it is now part of the commonsense way we interpret, live in, and understand the world.”⁵⁰⁰ It is the neoliberal commonsensicality, packaged in a multicultural ethos, for selling TMT that I have set out to unpack.

Although neoliberalism pervades the TMT project, the neoliberalization of Mauna a Wākea weaponizes multiculturalism. Multiculturalism has been articulated as the spirit of neoliberalism in three interconnected ways. First, the TIO suggests TMT provides economic opportunities that would benefit the local economy and individual residents of Hawai‘i, including Kānaka Maoli. For direct operations, TMT would require 140 full-time employees “including cultural and education outreach specialists.”⁵⁰¹ They argue there are also indirect employment impacts, stating that “the project would result in the creation of additional employment opportunities by contracting for work and services with local companies for a variety of services ranging from precision machine shop work to website design.”⁵⁰² As a result, an estimated \$13 million is budgeted for labor with approximately \$13 million budgeted for non-labor costs per year. TIO thus purports to contribute about \$26 million each year to the local economy. It plans to establish an Instrument Development Office in Hawai‘i that would manage the development of new

⁴⁹⁹ Dian Million, *Therapeutic Nations: Healing in an Age of Indigenous Human Rights* (Tucson, AZ: University of Arizona Press, 2013), 17.

⁵⁰⁰ Harvey, *A Brief History of Neoliberalism*, 3.

⁵⁰¹ “Site Information: Preliminary Economic Impact Analysis,” *Thirty Meter Telescope*, accessed January 31, 2018, <http://www.tmt.org>.

⁵⁰² *Ibid.*

techno-scientific instruments worth \$20 million. Additionally, the TIO contends that TMT will even increase tourism revenue, which in 2017 totaled \$1.96 billion from state taxes on \$16.78 billion in tourist expenditures.⁵⁰³ “As the TMT Observatory would be the most powerful ground-based observatory on Earth,” they speculate, “it is anticipated that it would generate interest and could lead to increased tourism related to the observatories and astronomy.”⁵⁰⁴ Lastly, the TIO plans to institute a Workforce Pipeline Program to train a highly qualified pool of workers for employment opportunities on the TMT project. Marking an interest in cultural sensitivity to actualize economic opportunities, they note, “The scope of these investments will include strengthening language and culture programs and their integration with science and engineering.”⁵⁰⁵ Although reports suggest economic opportunities will be reserved for Kānaka Maoli,⁵⁰⁶ the TIO does not confirm this and instead flags TMT’s employment benefits mainly for residents of Hawai‘i, which would de facto include Kānaka Maoli. An impudent reduction, increasing economic opportunities for State of Hawai‘i residents might improve those for Kānaka Maoli. The promised economic opportunities have persuaded individuals like science reporter Kelly Dickerson to claim, “From my vantage, colonialism is a separate issue from TMT: The corporation has taken so many steps to acknowledge the sleights of the past and ensure that the telescope’s construction will benefit native Hawaiians.”⁵⁰⁷ Driven

⁵⁰³ Hawai‘i Tourism Authority, “*Hawai‘i Tourism Industry Set New Record Totals in 2017*,” press release, January 31, 2018, <http://www.hawaiiitourismauthority.org>.

⁵⁰⁴ “Site Information: Preliminary Economic Impact Analysis.”

⁵⁰⁵ Ibid.

⁵⁰⁶ Kelly Dickerson, “This giant telescope may taint sacred land. Here’s why it should be built anyway,” *Business Insider*, November 18, 2015, <http://www.businessinsider.com.au/30-meter-telescope-should-be-built-mauna-kea-2015-8>.

⁵⁰⁷ Ibid.

by the invisible hand of global capital and the labor market, the proposed financial boom magically erases histories and contemporary conditions of colonialism.

Second, the TMT project offers educational programs for students. Commenting on the link between economic opportunities and educational programs, Keahi Warfield identified, “Hawaii’s [*sic*] high cost of living and students’ lagging test scores as signs that training youth to be ready for high-tech jobs at the telescope is crucial for the state’s economic future.”⁵⁰⁸ As the president of Perpetuating Unique Economic Opportunities, Warfield has worked closely with UH and the TIO to tout TMT’s economic opportunities by centering the needs of youth and students in Hawai‘i. He believes that TMT remedies the high cost of living in Hawai‘i as well as student underachievement by providing youth training for work on the project, which subsequently secures the settler-state’s political economic future. One program that Warfield and his nonprofit highlight is the TMT’s THINK (The Hawai‘i Island New Knowledge) Fund that pledges \$1 million per year “to better prepare Hawaii island students to master STEM (Science, Technology, Engineering and Math) and to become the workforce for higher paying science and technology jobs in Hawaii’s [*sic*] 21st century economy.”⁵⁰⁹ THINK Fund money, however, is not being distributed by the TIO. TIO recruited two other foundations to distribute scholarships and grants: the Hawai‘i Community Foundation and Pauahi Foundation. Both of which are delineating their own criteria for awarding resources. Despite given some autonomy, TIO is allocating \$750,000 for the THINK Fund at the

⁵⁰⁸ Jennifer Sinco Kelleher, “Pro-telescope groups tout educational benefits,” *Associated Press*, January 22, 2018, <http://www.ap.org>.

⁵⁰⁹ “THINK Fund,” *Thirty Meter Telescope*, accessed January 31, 2018, <http://www.tmt.org/page/think-fund>.

Hawai‘i Community Foundation and \$250,000 for the THINK Fund at the Pauahi Foundation. The Organizing Committee for THINK has also discussed specifying opportunities for Kānaka Maoli, recognizing that “an emphasis be given to improving opportunities for STEM education for Native Hawaiian students, not as an exclusive preference, but focusing on addressing the needs of Hawaii’s host culture.”⁵¹⁰ Similar to the way in which TIO promises economic opportunities for Kānaka Maoli as one group of Hawai‘i’s residents, the educational programs promised flag an emphasis on ‘Ōiwi students but without action. This maximizes the symbolism of TMT benefiting Kānaka Maoli while admitting to be materially indeterminate. Economic and educational freedoms for all residents of the State of Hawai‘i supplant the TIO’s policy to appropriate, perform, and share Indigeneity. The THINK Fund’s language overtly consolidates TIO’s economic and educational opportunities specifically for Kānaka Maoli as only accessible by treating Kanaka ‘Ōiwi as an ethnic or racial minority. Selling TMT through imagined economic and educational benefits, neoliberalism chokes ‘Ōiwi Indigeneity through an ideology of multiculturalism that suggests Kānaka Maoli are an ethnic or racial population, erasing Indigeneity as a form of difference organizing relations to Mauna a Wākea, and thereby are US citizens, which destroys the unique political status of Hawaiian Indigeneity with legal claims against the US settler-state. Abhorrent also, the trope of “Hawaii’s host culture” is folded into the equation to eschew how settler colonization of Kānaka Maoli operationalizes global capital. Claiming to focus on addressing the needs of ‘Ōiwi students, which are educational concerns and issues resulting from more than 175 years of settler colonial capitalism, tints the

⁵¹⁰ Ibid.

neoliberalization of Mauna a Wākea in multicultural veneer that propels TMT construction.

Third, the settler-state plans to develop Mauna a Wākea for global peace to promote TMT. On June 29, 2017, Hawai‘i County Mayor Harry Kim pitched an idea to OHA’s Board of Trustees to turn Mauna a Wākea into an international peace park. In the meeting Kim stated, “I believe that Mauna Kea can be a place of a pursuit of knowledge to make us a better people and better stewards of the land. Mauna Kea can be or should be a monument for the world for peace on earth.”⁵¹¹ Elaborating more, he suggested the mountain could be “a living museum for the first nations people of Hawaii” that would “teach the world that you people [Kānaka Maoli] were wronged.”⁵¹² Othering for sure, Kim sees the “wrong” done to “you people” as UH’s ongoing mismanagement of Mauna a Wākea. Balking at questions from trustees during the meeting, he shifted to propose the peace park as “an international monument of indigenous people all over the world.”⁵¹³ For Kim, the international peace park offers a grand vision for managing the mountain. However, Kānaka Maoli at the meeting testified against Kim’s plan. Many opposed the peace park as a distraction, voicing concerns over whether or not the TMT would be included in the plan. A prominent supporter of TMT, Kim has previously said, “I met with the governor, the attorney general, almost all of the observatories, I met with people funding TMT. I believe TMT is an opportunity for Hawai‘i Island, good for mankind,

⁵¹¹ Timothy Hurley, “‘Peace park’ generates negativity,” *Honolulu-Star Advertiser*, June 30, 2017, <http://www.staradvertiser.com>.

⁵¹² Ibid.

⁵¹³ Ibid.

good for Hawai‘i, good for students, good for the economy.”⁵¹⁴ Although the peace park plan has not explicitly included the TMT, Kim believes in the promised economic and educational opportunities and also that the TMT project is not just good for Hawai‘i but for “mankind.” He further alleges, “Mauna Kea can be and should be a monument for the world, for mankind’s quest of knowledge to make us a better people.”⁵¹⁵ Connecting the white supremacist and heteropatriarchal roots of scientific liberalism, TMT and a peace park on the mountain appear important for “mankind.” Kim finally asserts, “Because of the Hawaiian being the first people of the nation of Hawaii, from that they developed into the cosmopolitan race of Hawaii, meaning people belonging to the world. This whole mountain symbolizes all those things.” The Indigeneity and national sovereignty of Kānaka Maoli become raw material for development of a post-racial ideology that attempts to piece together claims over Mauna a Wākea staked for all people and nations of the world. It is an astonishing set of logical leaps that depend upon and strengthen the TMT’s neoliberal multiculturalism. “Not surprisingly,” Melamed writes, “neoliberal multiculturalism is one of the most useful discourses functioning today to dispossess indigenous peoples of their lands and resources and to make such dispossession appear inevitable, natural, or fair.”⁵¹⁶ Kim’s enunciation of neoliberal multiculturalism “justifies the removal of indigenous peoples from their lands by describing the entire world as the rightful potential property of global multicultural citizens.”⁵¹⁷ The neoliberal multiculturalism, here, praises prospects for planetary peace by gifting Mauna a Wākea to

⁵¹⁴ Sherry Bracken, “Mayor Kim’s Mauna Kea Vision,” *Hawai‘i Public Radio*, May 4, 2017, <http://www.hawaiipublicradio.org/post/mayor-kim-s-mauna-kea-vision>.

⁵¹⁵ Ibid.

⁵¹⁶ Melamed, *Represent and Destroy*, 183.

⁵¹⁷ Ibid.

the world in a process that elides and obfuscates how globalized racial capitalism in Hawai‘i is co-constitutive of settler colonialism. In a letter of support written to Kim, State of Hawai‘i Governor David Ige says, “I could think of no better person than you to lead and organize a working group of like-minded individuals to create a Living Monument of World Peace on Mauna Kea.”⁵¹⁸ As a quasi-governmental institution,⁵¹⁹ Kim’s working group continues to plan developing Mauna a Wākea into an international peace park. Backed by the TIO and Ige who both strongly desire selling TMT, the peace park would harm Kanaka ‘Ōiwi relations with the mountain and then claim it not just for astronomers or the settler-state but the entire globe.

Neoliberal Crisis

I conclude my investigation of TMT’s liberalisms by considering how Kanaka Maoli refusals of TMT unravel the neoliberal crisis in settler states of exception. My objective in this chapter has been to scrutinize “the historical-geographical record of neoliberalization for evidence of its power as a potential cure-all for the political-economic ills that currently threaten us.”⁵²⁰ I have explored the ways in which scientific liberalism recruits an ethos of multiculturalism before relying upon neoliberalism in the record of political economies to sell TMT. In each stage, representations of Indigeneity work to destroy Mauna a Wākea, Hawai‘i, and Kānaka Maoli. But these are social relations produced by institutions and individuals, containing instabilities and fissure points. Rather than arguing that TMT has absolutely represented and destroyed, its

⁵¹⁸ “Governor Ige to Mayor Kim on Living Monument for World Peace on Mauna Kea,” *Big Island Now*, October 30, 2017, <http://bigislandnow.com/2017/10/30/governor-ige-to-mayor-kim-on-living-monument-for-world-peace-on-mauna-kea>.

⁵¹⁹ See Harvey, *A Brief History of Neoliberalism*, 76.

⁵²⁰ *Ibid.*, 154.

project to represent and destroy has actually failed. It fails because Kānaka Maoli have refused to buy into the ideological force of scientific liberalism, liberal multiculturalism, and neoliberal multiculturalism. ‘Ōiwi resistance has, in fact, succeeded in stopping all TMT construction, and the TIO and settler-state have certainly been shaken. TMT is still an idea, something to promote and not yet sold. In this failure, the attempts to provide political economic cure-alls have laid bare the weaknesses of TMT’s liberalisms as well as US settler sovereignty in Hawai‘i.

Kanaka ‘Ōiwi refusals of TMT produce alternatives to neoliberalism. On one hand, Kānaka Maoli and allies have challenged the legality of TMT. Bringing lawsuits against the TMT’s building permit and sub-lease, legal activisms have challenged the project’s temporality. As the BLNR granted both the building permit and sub-lease before holding contested case hearings for public input, the State of Hawai‘i has partnered with the TIO and UH to build TMT in a timely manner. There is a demand and pressure to begin construction so as to secure the transmission and will of global capital. However, unremitting legal actions to pause and end TMT construction have interrupted the rapidity of its development and tempo. Harvey observes, “But it is costly and time-consuming to go down legal paths, and the courts in any case heavily biased towards ruling class interests, given the typical class allegiance of the judiciary. Legal decisions tend to favour rights of private property and the profit rate over rights of equality and social justice.”⁵²¹ For him, “The frequent appeal to legal actions, furthermore, accepts the neoliberal preference for appeal to judicial [power].”⁵²² While I agree that neoliberalism

⁵²¹ Ibid., 176.

⁵²² Ibid.

impels subjects into courts to fight for legal rights, courts are biased toward ruling class interests, and rulings tend to favor private property and profit in the end, I disagree with his analysis of time. Time is not simply a commodity to be (over)consumed; it is produced in social relations and can be disturbed. Kanaka ‘Ōiwi interruption of the TMT’s rhythm, cadence, and tempo—a temporality to break ground *as soon as possible* and complete construction *quickly* to look into *past dark ages* and *future new frontiers*—is an important strategy. Legal action against TMT can be seen as an alternative tactic to engaging the temporal frame of reference for neoliberalism. Although lawsuits against TMT have differently won in court, praising rulings as uncomplicated victories does accept the neoliberal preference for judicial appeal and its juridical power to subjugate under US settler sovereignty, as Harvey cautions. Rather, I argue that legal activism has the capacity to disrupt the normative development of TMT, forcing the TIO to look elsewhere despite possessing an uneven and unfair access to financial resources. TIO has indeed reported that it could move the project to a backup site at Observatorio del Roque de los Muchachos on La Palma in the Canary Islands.⁵²³ This is a temporal triumph for Kānaka Maoli and Mauna a Wākea. But it is one that must be followed up by sustained antagonisms of TMT, wherever it might be constructed. Otherwise, the alternatives to neoliberalism in Hawai‘i allow global capitalism to continue flowing, business as usual.

On the other hand, Kānaka Maoli and allies have engaged in direct-action blockades to stop TMT construction. Blockades have been occurring for years, and most notably between 2014 and 2016 when construction crews and infrastructure for TMT

⁵²³ Sarah Lewin, “Will the Thirty Meter Telescope Be Moved to the Canary Islands?” *Space*, June 2, 2017, <http://www.space.com/37067-canadian-astronomers-consider-megatelescope-move.html>.

began being transported to the northern plateau of Mauna a Wākea. Discussing this kind of direct-action, Coulthard contends that blockades are negating and affirming. He writes, “They are a crucial act of negation insofar as they seek to impede or block the flow of resources currently being transported from oil and gas fields, refineries, lumber mills, mining operations, and hydro-electric facilities located on the dispossessed lands of Indigenous nations to international markets.”⁵²⁴ Blockades also obstruct the transportation of construction crews and infrastructure for astronomy industry development. “These forms of direct action,” he says, “seek to negatively impact the economic infrastructure that is core to the colonial accumulation of capital in settler political economies.”⁵²⁵ Indigenous blockades of settler colonial capital are simultaneously affirming. According to Coulthard, “They embody an enactment of Indigenous law and the obligations such laws place on Indigenous peoples to uphold the relations of reciprocity that shape our engagements with the human and non-human world – the land.”⁵²⁶ Kanaka ‘Ōiwi blockades against TMT construction negatively impact the neoliberal pulse of settler colonial capital, while also affirming kinship relations and responsibilities to protect Mauna a Wākea. These affirmations have been enunciated through aloha ‘āina and demonstrate further how it is an ‘Ōiwi geontology that is both anti-colonial and anti-capitalist. The blockades themselves embody alternatives to neoliberalism. They also create a neoliberal crisis. Harvey states, “The internal economic

⁵²⁴ Glen Sean Coulthard, “For Our Nations to Live, Capitalism Must Die,” *Unsettling America: Decolonization in Theory & Practice*, November 5, 2013, <http://unsettlingamerica.wordpress.com/2013/11/05/for-our-nations-to-live-capitalism-must-die>.

⁵²⁵ Ibid.

⁵²⁶ Ibid.

and political contradictions of neoliberalization are impossible to contain except through financial crisis.”⁵²⁷ One element for detecting financial crisis for neoliberalism is capital flight. Capital flight, for Harvey, occurs when oppositional movements organize against (capital) accumulation through (settler colonial) dispossession. Investors have grown weary of legal activisms and blockades to interrupt the construction of TMT. This is evinced by TIO’s suggestion that TMT might move to the La Palma in the Canary Islands. The capital fright and flight indicates a neoliberal crisis for TMT.

The neoliberal crisis also impacts the State of Hawai‘i. As oppositional pressure placed onto global capital weighs heavy, the neoliberal multiculturalism supported and articulated by the settler-state dims and becomes unstable. The US settler-state of Hawai‘i cannot control global capital in the same way that it is controlled by global capital. As global capital backing the TIO for development of TMT coerces the settler-state into legal and extra-legal advocacy, some power is given up in return for international competition and globalization. But what happens when international competition stops? What is the status of settler sovereignty when global capital flees? The neoliberal crisis produced by Kanaka ‘Ōiwi opposition to TMT is a settler state of exception. Settler sovereignty is an empty signifier that fretfully coheres only by making Indigenous people appear peculiar, in an anomalous status, within the geopolitical terrain of settler colonial biopower. As previously mentioned, a settler colonial state of exception “emphasizes the coercive imposition of domesticity on Native peoples who neither sought nor desired it, foregrounding the ways the narration of Indigenous polities as subjects of domestic law depends on a process of exceptionalization,” whereby, “they

⁵²⁷ Harvey, *A Brief Introduction to Neoliberalism*, 188.

axiomatically are consigned to a ‘peculiar,’ and thus regulatable, internality that forcibly disavows their autonomy and self-representations.”⁵²⁸ As the US settler-state in Hawai‘i attempts to shore up its sovereignty in Hawai‘i by legally sanctioning astronomy industry development on Mauna a Wākea, it attempts to cohere power by funneling *development* and *defense* of the mountain into its juridical orbit as a way to signify territorial authority. This process renders Kānaka Maoli peculiar and anomalous in the landscape of what has been designated for the astronomy industry. However, when global capital pulls the TMT elsewhere, as a result of Kanaka ‘Ōiwi alternatives to neoliberalism, the geopolitical landscape designated by the settler-state becomes precarious. Kānaka Maoli temporally interrupting the development of TMT through legal activism induce capital flight whereas Kānaka Maoli blockading TMT construction crews and infrastructure re-occupy and re-claim Mauna a Wākea. These are tremendous gifts of sovereignty that allow us to view the diversity of strategies, whether legal activism or direct-action blockade, against TMT as a unified front for ea. They expose the insecurity of US settler sovereignty over Mauna a Wākea, Hawai‘i, and Kānaka Maoli. These alternatives to the neoliberalization of Mauna a Wākea can be understood and utilized as alternatives to US settler sovereignty in Hawai‘i. It is an alternative worth buying.

⁵²⁸ Rifkin, “Indigenizing Agamben,” 114.

Chapter 6

Conclusion

“The state reinforces a system that produces criminals out of those it has dispossessed.”

—Macarena Gómez-Barris⁵²⁹

The State of Hawai‘i was founded on land stolen from Kānaka ‘Ōiwi. It is a US settler-state. It formed initially in the wake of the illegal US overthrow of the Hawaiian Kingdom in 1893. As the Republic of Hawai‘i, it granted the unlawful annexation of the Hawaiian islands and transferal of the Hawaiian Kingdom’s national lands to the US federal government in 1898. After being the Territory of Hawai‘i, the US federal government manufactured the “State of Hawai‘i” in 1959 and institutionalized it as the so-called fiftieth state, without consent from Kānaka Maoli.⁵³⁰ The legal, economic, political, and social processes for settlement of Hawai‘i are ongoing to this very day. One pivotal way that settlement has continued, which I have gestured throughout this dissertation, is through the criminalization of Kānaka ‘Ōiwi. Particularly, the US settler-state in Hawai‘i turns Kānaka ‘Ōiwi into criminals to be detained, incarcerated, maimed, removed, murdered, and disappeared. The criminalization of Indigenous people—from Hawai‘i to the Americas, Palestine, and elsewhere—is an eliminatory technique for colonial dispossession. For instance, Kānaka Maoli have been labeled threats of violence to be criminalized for defending our sacred mountain Mauna a Wākea from the Thirty

⁵²⁹ Macarena Gómez-Barris, *The Extractive Zone: Social Ecologies and Decolonial Perspectives* (Durham, NC: Duke University Press, 2017), 87.

⁵³⁰ Aguon, “The Commerce of Recognition (Buy One Ethos, Get One Free),” 37-43.

Meter Telescope. Water protectors of the Mni Sose, the Missouri River, have also been labeled threats of violence to build the Dakota Access Pipeline. Accusations of violence were used to unleash dog attacks, strip search women, bag heads in hoods, rip flesh from bone with water cannons. The assault on Indigenous life, land, and water at on the territory of the Standing Rock Sioux Nation clarifies how “in the United States, the Indian is the original enemy combatant.”⁵³¹ The criminalization of Indigenous populations, across Oceania and America, is an original feature of settler sovereignty. Ford writes, “The exercise of jurisdiction over indigenous crime performs the myth of settler sovereignty over and over.”⁵³² What she refers to as legal myth Rifkin calls the empty sign of settler sovereignty,⁵³³ which, performed obsessively over and over again, reveals a hollowness in settler-state power to be targeted and antagonized. I conclude this dissertation by exploring how Kanaka Maoli activists, protecting our sacred mountains from astronomy industry development, expose the incoherence of settler sovereignty in Hawai‘i. Their activisms present kuleana and responsibility to protect the ‘āina.

How does the state materially reinforce a system that produces criminals out of those it has dispossessed? I argue it is through the management of threats of violence. To support this claim, I look at settler-state policing from the primary vantage of Kanaka Maoli opposition to the TMT. Analyzing three material objects—an emergency rule, bullet hole, and knee—I track how *symbolic threats of violence* are manufactured to obscure and exact *concrete violences*. But, what can an administrative law, image of a hole in a door, and body part of a police officer tell us about threats of violence? Indeed,

⁵³¹ Byrd, *The Transit of Empire*, xviii.

⁵³² Ford, *Settler Sovereignty*, 208.

⁵³³ Rifkin, “Indigenizing Agamben,” 115.

these legal, visual, and fleshy objects are quite revealing. Interrogating discourses mingling through and amongst them, I argue ‘threats of violence’ is a discursive formation produced by the settler-state and dispersed through its institutions of media and police. Weaving scholarship from Indigenous Studies and Hawaiian Studies together with Critical Police Studies, I demonstrate ‘threats of violence’ maintains a dual function. First, suggesting that Kānaka Maoli who defend Mauna a Wākea from the TMT threaten acts of violence, and are violent threats themselves, rationalizes police intervention by the US settler-state. In other words, figurative threats of alleged violence from kia‘i, the guardians and protectors of our mountain, condone material violence against them by police. Second, ‘threats of violence’ defers and tries to erase not only the colonial violence animating the US settler state in Hawai‘i, and its deployment of police and their militarized interventions, but also the diversity of violence that TMT does. In what follows, I mine three material objects, offer two interventions, and conclude with one mo‘olelo—a story that lays bare how settler-state policing of Kānaka Maoli is a performance of precarity.

Traversing temporalities, the TMT project purports to explore dark ages of the universe and unlock new frontiers for mankind. As Casumbal-Salazar has written, TMT seeks to develop more land at the northern plateau of Mauna a Wākea, which already has twenty-one telescopes and thirteen observatories, in order for deserving subjects—white settler men—to progress toward modernity.⁵³⁴ This mission is backed by approximately \$1.5 billion pledged by national astronomy organizations from China, Japan, and India and also the Canadian Crown, University of California, and California Institute of

⁵³⁴ Casumbal-Salazar, “A Fictive Kinship.”

Technology. As discussed in Chapter 4, North American settler colonialisms marry through global capital, and the international funding of TMT neoliberalizes Mauna a Wākea, a worldwide financialization of the desecration and destruction of our sacred mountain. The TMT promises economic benefits—jobs, expenditures, tourism—and educational opportunities like scholarships for students in science, technology, engineering, and math fields. Aroused by vows of technological advancement, scientific progress, economic benefits, and educational opportunities, the State of Hawai‘i has deep desires to build TMT and a vested interest in astronomy industry development. When it sanctions the TMT, it does not just flag how the State of Hawai‘i is constituted on lands stolen and seized from our lāhui Hawai‘i. It also puts on display how State of Hawai‘i support of astronomy industry development proliferates settler colonial power so as to secure its institutionalization in the formation of Hawai‘i as a US settler-state. Calculated yet unstable, this juridical order demands to be secured from Kānaka ‘Ōiwi resisting TMT, or, as astrophysicist Sandra Faber described in a leaked email, “a horde of native Hawaiians who are lying about the impact of the project on the mountain and who are threatening the safety of TMT personnel.”⁵³⁵

Emergency Rule

An emergency rule was approved by the Board of Land and Natural Resources (BLNR) in 2015 to criminalize the kia‘i who were re-occupying Mauna a Wākea to protect it against TMT (see figure 18). This administrative law created a few rules: the mountain’s access road and 1-mile on either side of it are “restricted areas”; “transiting”

⁵³⁵ Molly Solomon, “How The Debate Over TMT Prompted a Problematic Email,” *Hawai‘i Public Radio*, May 15, 2015, <http://www.hpr2.org/post/thirty-meter-telescope-hawaii-series>.

means traveling-through in a vehicle at reasonable speeds with regard to hazards; possession of “sleeping bags, tents, camping stoves, and propane burners” in restricted areas is prohibited; and entering or remaining in restricted areas from 10:00 PM to 4:00 AM is banned, unless transiting through the access road or entering, within, and exiting an observatory or UH facility. On one hand, these rules regulated kia‘i as criminals to police by disciplining them as trespassing campers. On the other hand, the rule declared a state of emergency to swiftly make blockading TMT construction unlawful. With short notice, the BLNR met on July 10, 2015 and sought public testimony on the emergency rule. Douglas Chin, the Attorney General of Hawai‘i at that time, gave testimony. Targeting kia‘i, he claimed there was “[an] imminent peril to public health, safety, and morality” for four reasons: rocks and stone structures have been placed on the access road; presence of people there has increased; those people have disregarded authorities; and they have harassed and made violent threats to workers of the visitor center, observatories, and construction crews.⁵³⁶ For example, a surveillance log filed by rangers of the Office of Maunakea Management alleged there was a bomb threat—that one kia‘i threatened a suicide bombing. Of course, this was unsubstantiated but nevertheless the story the settler-state told itself. Urging the BLNR, Chin exclaimed the rule should be adopted to “mitigate these threats.”⁵³⁷ BLNR board member Stanley Roehrig agreed this was a “clear and present danger,” and subsequently recommended rangers be given police powers.⁵³⁸ After over eight hours of testimony, the emergency rule was passed by

⁵³⁶ See “BLNR Meeting – July 10, 2015 – Testimonies,” *‘Ōiwi TV*.

⁵³⁷ *Ibid.*

⁵³⁸ See “VIDEO: BLNR Approves Restrictions of Mauna Kea,” *Big Island Video News*, July 11, 2015, <http://www.bigislandvideonews.com/2015/07/11/video-blnr-approves-emergency-restrictions-on-mauna-kea>.

the BLNR in a 5-2 vote. Four days later, Governor David Ige signed the emergency rule into law, codifying it as Hawai‘i Administrative Rule 13-123-21.2. An advocate for deploying the National Guard to quell protests,⁵³⁹ Ige noted, “We cannot let some people put others at risk of harm or property damage.”⁵⁴⁰ Put another way, the executive branch cannot let kia‘i and Kānaka Maoli harm state workers or damage private property. The settler-state will do what is necessary to protect capital’s bottom line of property, profit, and dispossession.

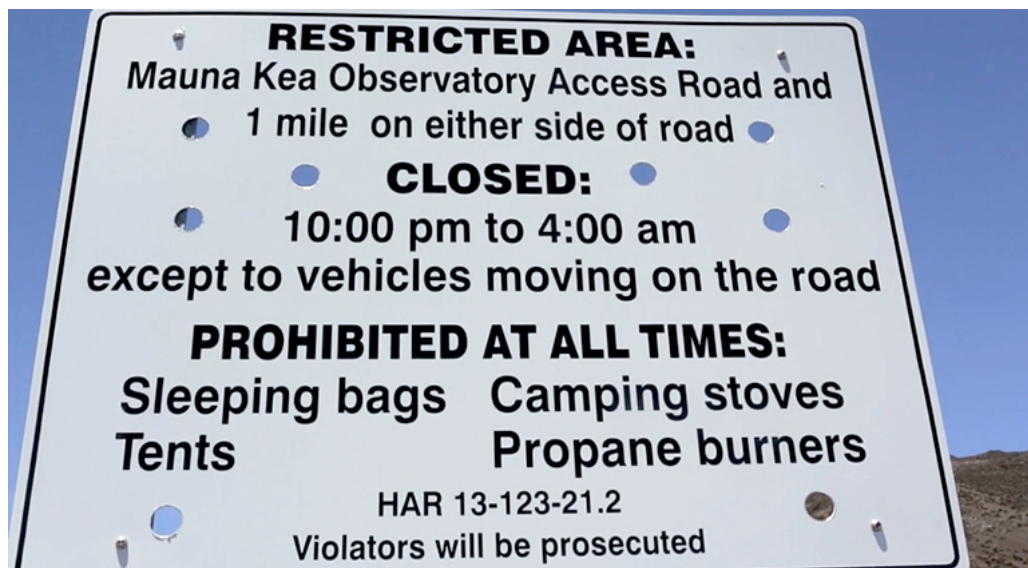


Figure 18. HAR 13-123-21.2 public notice. Source: Office of Hawaiian Affairs.⁵⁴¹

In the early morning on July 31, 2015, during Lā Ho‘iho‘i Ea, police forces slithered up the mountain to detain and remove kia‘i (see figure 19). With executive

⁵³⁹ “No connection between National Guard training, TMT protests,” *Hawaii Tribune-Herald*, July 16, 2015, <http://www.hawaii-tribune-herald.com/2015/07/16/hawaii-news/no-connection-between-national-guard-training-tmt-protests>.

⁵⁴⁰ Mileka Lincoln, “Ige signs emergency rule restricting Mauna Kea access,” *Hawaii News Now*, July 14, 2015, <http://www.hawaiinewsnow.com/story/29549333/ige-signs-emergency-rule-restricting-mauna-kea-access>.

⁵⁴¹ “OHA applauds court for invalidating Mauna kea rule,” *Office of Hawaiian Affairs*, October 13, 2015, <http://www.oha.org/news/oha-applauds-court-for-invalidating-mauna-kea-rule>.

authority from the emergency rule, officers from the Division of Conservation and Resource Enforcement cited six and arrested seven kia‘i, whom were found in violation of prohibited activities like camping in the restricted area. Exercising executive powers of the Land Board, attorney general, governor, and police, the settler-state has marked Kānaka ‘Ōiwi, guarding our mountain from desecration and destruction, as threatening acts of violence. It defends TMT as a project of settler colonial capitalism that works to dispossess territory in Hawai‘i, alienate relations with Mauna a Wākea to eliminate Kānaka Maoli by eradicating our kinship to ‘āina and wahi kapu (sacred places), and thus replace us to develop the astronomy industry for techno-scientific progress. David Correia and Tyler Wall summarize, “Ain’t no colonialism and ain’t no capitalism without cops.”⁵⁴² Later in September, eight more kia‘i were arrested. Grossly ironic, the Department of Land and Natural Resources commented that the second set of arrests under the emergency rule aided in “establish[ing] safe conditions on the mountain for protestors.”⁵⁴³ Since 2015, there have been 59 different arrests of kia‘i. Accusing kia‘i of violent acts thereby operationalizes the criminalization of Kānaka, a racialized colonial violence, and functions concomitantly to conceal the violence of TMT.

⁵⁴² David Correia and Tyler Wall, *Police: A Field Guide* (Brooklyn, NY: Verso, 2018), 6.

⁵⁴³ See “SECOND ROUND OF ARRESTS ON MAUNA KEA UNDER EMERGENCY RULE,” *Department of Land and Natural Resources*, September 9, 2015, <http://dlnr.hawaii.gov/blog/2015/09/09/nr15-132>.



Figure 19. Division of Conservation and Resource Enforcement arrests. Source: Department of Land and Natural Resources.⁵⁴⁴

In October of 2015, an Environmental Court of the Third Circuit invalidated the rule, pursuant to Hawai‘i Revised Statute 91-7, because the State of Hawai‘i improperly implemented an emergency rule that sidestepped requirements for public notice to enact new administrative rules with the explicit purpose of stopping protests. This decision suggested the emergency rule created an unlawful exception, which declared new administrative law by suspending existing procedural regulations—what some may call a state of exception but what I suggest is a settler state exception. E. Kalani Flores, who brought the suit against the BLNR and also testified against the DOI’s ANPRM in Chapter 2, remarked delightedly, “The State can no longer arrest innocent people who are on Mauna Kea at night for cultural or spiritual reasons.”⁵⁴⁵ It was an important tactical

⁵⁴⁴ See Gregg Kakesako, “Eight protestors arrested on Mauna Kea,” *Honolulu Star-Advertiser*, September 9, 2015, <http://www.staradvertiser.com/2015/09/09/breaking-news/eight-protesters-arrested-on-mauna-kea-2>.

⁵⁴⁵ Ben Gutierrez, “Court throws out emergency restrictions for Mauna Kea,” *Hawaii News Now*, October 9, 2015, <http://www.hawaiinewsnow.com/story/30229910/circuit-court-grants-partial-motion-invalidating-mauna-kea-emergency-rule>.

victory. But, ‘threats of violence’ as a discursive formation is not just constructed in law. It is also normalized and dispersed from imagery circulated in media.

Bullet Hole

One month before the emergency rule was put into law, media reports alleged that a bullet hole was found on a door of the Subaru Observatory (see figure 20), an existing telescope complex on Mauna a Wākea. When workers of the National Astronomical Observatory of Japan operating the Subaru Telescope discovered the hole in the door, they quickly called police. Patrol sergeant Paul Kim stated, “When officers responded to the scene, the employees had found something appearing to be a bullet hole in one of the doors.”⁵⁴⁶ Local media pounced fast. In the following days, news articles surfaced containing titles from “Police investigating *possible bullet hole* in Mauna Kea observatory”⁵⁴⁷ to “*Bullet Hole Found* In Door of Mauna Kea Observatory.”⁵⁴⁸ Speculation transformed into fact. Kia‘i were blamed immediately—not just for puncturing the door but also possessing and using guns. Kia‘i Kaho‘okahi Kanuha replied, “We do not condone that kind of action by anybody for any reason at any time, especially on Mauna a Wakea, the place that we know is sacred.”⁵⁴⁹ Without any evidence except images circulating in media, kia‘i re-occupying the mountain haunted

⁵⁴⁶ Ben Gutierrez and Chelsea Davis, “Police investigating possible bullet hole in Mauna Kea observatory,” *Hawaii News Now*, June 7, 2015, <http://www.hawaiinewsnow.com/story/29259956/police-investigating-bullet-hole-discovered-in-door-of-mauna-kea-observatory>.

⁵⁴⁷ Ibid, emphasis mine.

⁵⁴⁸ “Bullet Hole Found In Door Of Mauna Kea Observatory,” *Big Island Video News*, June 7, 2015, <http://www.bigislandvideonews.com/2015/06/07/bullet-hole-found-in-door-of-mauna-kea-observatory>, emphasis mine.

⁵⁴⁹ Gutierrez and Davis, “Police investigating possible bullet hole in Mauna Kea observatory.”

observatories, their employees, and the settler-state. “Declaring *something* or *someone* a threat,” Correia and Wall suggest, “is one of the most normalized of all powers internal to the police function.”⁵⁵⁰ Forged into spectral ghosts, apparitions of astronomy industry development, *kia‘i* presence on Mauna a Wākea was reason enough to conjure blame, as if the threat of such violence, a loaded gun fired at an observatory, was always already present in *kia‘i* and Kānaka ‘Ōiwi.

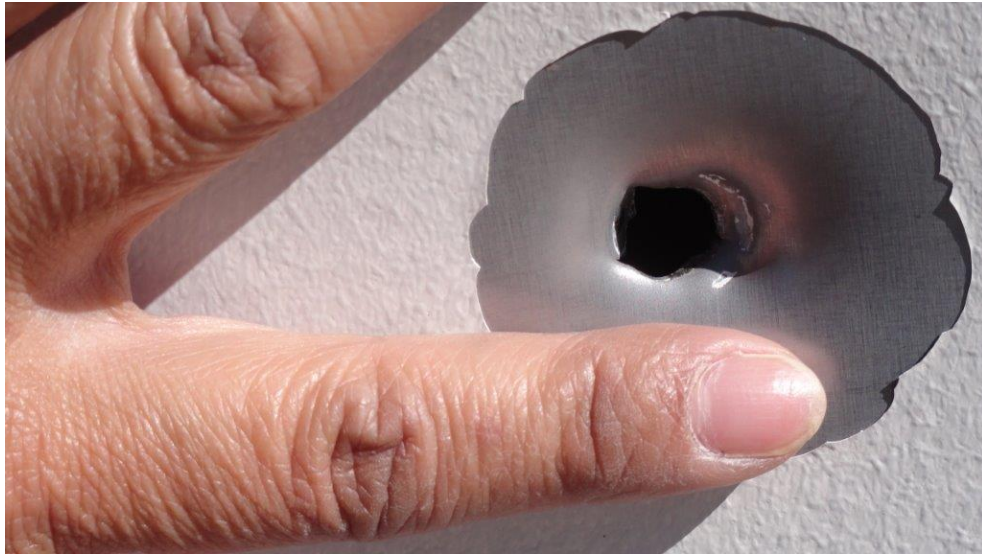


Figure 20. Bullet hole on door of Subaru Observatory. Source: Hawai‘i Police Department.⁵⁵¹

But in a statement made by the director of the Subaru Observatory, the damage to the door was confirmed to not be from gunfire (see figure 21). There was a “confirmed match between this hole and an intake manifold cover on the [adjacent] wall.”⁵⁵² Police

⁵⁵⁰ Correia and Wall, *Police*, 232, emphasis mine.

⁵⁵¹ See Richard Ha, “BULLET ON THE MOUNTAIN – WHERE ARE THE LEADERS?” *Hamakua Springs*, June 7, 2015, <http://www.hamakuasprings.com/2015/06/bullet-on-the-mountain-where-are-the-leaders>.

⁵⁵² “Hole in door at Mauna Kea telescope not from bullet,” *Hawaii News Now*, June 8, 2015, <http://www.hawaii.newsnow.com/story/29269829/hole-in-door-at-mauna-kea-telescope-not-from-bullet>.

concluded that the damage had been there for approximately six months.⁵⁵³ The damage was only uncovered and investigated when blockades against TMT ramped up. This was a cunning sleight of hand. In a proceeding news article, “Kaho‘okahi Kanuha said he was glad to see the matter resolved but also was disappointed that protesters, a few of whom remain camped on the mountain, were being accused on social media of being responsible.”⁵⁵⁴ Although dispelled, the circulating imagery of a “bullet hole” naturalized the bodies of those protecting Mauna a Wākea as persistent threats of violence.



Figure 21. Hole on door of Subaru Observatory. Source: *Honolulu Star-Advertiser*.⁵⁵⁵

⁵⁵³ Jamilya Epping, “Hole at the Subaru Telescope Not from Bullet,” *Big Island Now*, June 8, 2015, <http://bigislandnow.com/2015/06/08/hole-at-the-subaru-telescope-not-from-bullet>.

⁵⁵⁴ “Hole in door not caused by bullet, Subaru says,” *Hawaii Tribune-Herald*, June 9, 2015, <http://www.hawaiitribune-herald.com/2015/06/09/hawaii-news/hole-in-door-not-caused-by-bullet-subaru-says>.

⁵⁵⁵ Timothy Hurley, “Subaru Telescope: Dent in observatory door not a bullet hole,” *Honolulu Star-Advertiser*, June 8, 2015, <http://www.staradvertiser.com/2015/06/08/breaking-news/subaru-telescope-dent-in-observatory-door-not-a-bullet-hole>.

Police Knee

Examining a final object, I contend the discursive formation ‘threats of violence’ has become incapacitating. It is not simply embodied, as in mapped onto the bodies of *kia‘i* and *Kānaka ‘Ōiwi*. It is also debilitating, a rationale for crushing force—produced by settler-state law, circulated in media imagery, and meted out by the knee of a police officer. In 2017, more than a hundred *kia‘i* blockaded crews transporting a 3-ton mirror to complete assembly of the Daniel K. Inouye Solar Telescope on Haleakalā, a different sacred mountain on Maui island. Applying new techniques for detainment and removal, adapted from lessons learned on Mauna a Wākea, police arrested six *kia‘i*. settler-state policing of *Kānaka Maoli* is not unique to the case of TMT. After all, astronomy development in Hawai‘i is an industry not one telescope. On July 30, 2015—the night before emergency rule arrests on Mauna a Wākea—heavily militarized police arrested twenty *kia‘i* demonstrating against the Solar Telescope on Haleakalā. Kai Prais was arrested then. Subsequently on August 2, 2017 (see figure 22), he was arrested again, but in a spectacular display of violence. Prais was viciously detained and lost consciousness when a police officer pressed his knee into Prais’ skull. He shrieked in pain for help but the cop “continued to keep his knee on his head.”⁵⁵⁶ The knee jammed into his skull “was overkill,” says Kaukaohu Wahilani who was next to Prais during the blockade.⁵⁵⁷ *Kāko‘o*

⁵⁵⁶ Wendy Osher, “*Kāko‘o* Haleakalā Protest: Police Force Questioned During Injury to Demonstrator,” *Maui Now*, August 1, 2017, <http://mauinow.com/2017/08/01/kakoo-haleakala-demonstration-staged-at-convoy-crossing-site>.

⁵⁵⁷ Mileka Lincoln, “Maui police deny claims officers used excessive force during Haleakala protest,” *Hawaii News Now*, August 3, 2017, <http://www.hawaiinewsnow.com/story/36045224/protesters-claim-police-brutality-after-haleakala-confrontation>.

Haleakalā, a coalition that organized the blockade, commented that they called an ambulance while police “just stood there and did not assist.”⁵⁵⁸ The coalition and kia‘i claim police used excessive force, whereas police suggest Prais “resisted arrest” and “officers did what they’re trained to do.”⁵⁵⁹ Labeling kia‘i as threatening acts of violence and violent threats rationalizes and defers this visceral violence. From Mauna a Wākea to Haleakalā, the discursive formation that I have tracked here justifies police violence to secure settler capital for astronomy industry development in Hawai‘i. Conversely, settler capital bolsters the policing of Kānaka Maoli. This is especially true in a moment wherein the State of Hawai‘i’s Attorney General Clare E. Connors, discussed in the introduction, is attempting still to secure \$2.5 million from the legislature to fund “state security operations” for assisting astronomy industry development.

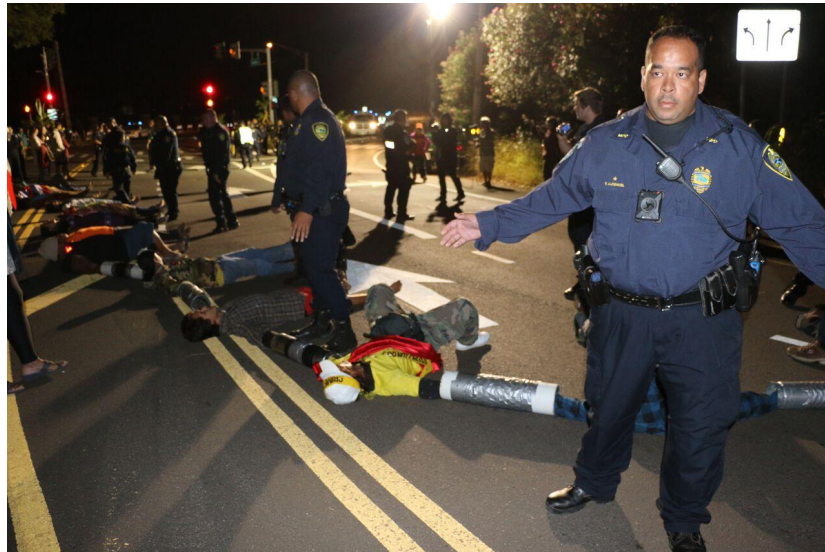


Figure 22. Blockade against Daniel K. Inouye Solar Telescope on Haleakalā. Source: Department of Land and Natural Resources.⁵⁶⁰

⁵⁵⁸ Osher, “Kāko’o Haleakalā Protest.”

⁵⁵⁹ Lincoln, “Maui police deny claims officers used excessive force during Haleakala protest.”

⁵⁶⁰ See Ku‘uwehi Hiraishi, “Maui Protest Will Not Be the Last Against Solar Telescope Construction,” *Hawai‘i Public Radio*, August 3, 2017,

Precarious Performances

Weaponized in these ways, US settler sovereignty has unraveled in its proliferation. My analysis offers new insights for a Critical Hawaiian Studies on the relationship between policing and sovereignty by illustrating how policing Kānaka ‘Ōiwi is a precarious performance of US settler sovereignty in Hawai‘i. It is a spectacle attempting to piece together jurisdictional authority and territorial control. Never legally whole as the emergency rule elucidated, far from material truth in the case of the “bullet hole,” and brutally insecure as signified by the police officer’s knee. Nevertheless, while criminalizing Indigenous people has historically been a legal domain for anxiously asserting settler sovereignty, other populations of Black, migrant, refugee, queer, and trans subjects are differently marked ‘threats of violence’ for the US settler-state to police. Indeed, this discursive formation is not exceptional to Indigenous people. I hope that my analysis might encourage Critical Indigenous Studies to build coalitional bridges on the relationalities produced across imagined ‘threats of violence’ for intersectional alliances against the corporeal violence exacted by settler-states.

I want to end the project with a final mo‘olelo. This mo‘olelo elucidates how gifts of sovereignty disidentify with time to antagonize the settler-state’s juridical recognition, intelligibility, and violence. Kaleikoa Ka‘eo reported to trial in Maui District Court on January 24, 2018 and was issued a warrant for speaking ‘ōlelo Hawai‘i. Charged with three petty misdemeanors from blockading the Solar Telescope at Haleakalā in 2017 (see figure 23), Ka‘eo identified himself to Judge Blaine Kobayashi, “Eia nō wau ke kū nei

<http://www.hawaiipublicradio.org/post/maui-protest-will-not-be-last-against-solar-telescope-construction>.

ma mua ou.”⁵⁶¹ This meant: I am here indeed, standing in front of you. Kobayashi replied, “I don’t know what that means, Mr. Kaeo.”⁵⁶² Ka’eo responded again in the



Figure 23. Kaleikoa Ka’eo arrested during blockade at Haleakalā. Source: Bryan Berkowitz.⁵⁶³

Hawaiian language, as he has done in previous trials for blockading the Solar Telescope as well as TMT. Kobayashi then issued a bench warrant on the basis that “the court is unable to get a definitive determination for the record that the defendant seated in court is Mr. Kaeo.”⁵⁶⁴ Not only had Kobayashi presided over former cases with Ka’eo, making it reasonable to assume he himself recognized “the defendant seated in court,” but Kobayashi literally refers to Kaleikoa by name saying, “I don’t know what that means,

⁵⁶¹ Kekailoa Perry, “Interpreter Incident Illustrates Invisibility Of Native Hawaiians,” *Civil Beat*, February 1, 2018, <http://www.civilbeat.org/2018/02/interpreter-incident-illustrates-invisibility-of-native-hawaiians>.

⁵⁶² *Ibid.*

⁵⁶³ See Ku’uwehi Hiraishi, “Maui Telescope Protestor Battles Over Hawaiian Language Use in Court,” *Hawai’i Public Radio*, January 24, 2018, <http://www.hawaiipublicradio.org/post/maui-telescope-protestor-battles-over-hawaiian-language-use-court>.

⁵⁶⁴ *Ibid.*

Mr. Kaeo.” Moreover, ‘ōlelo Hawai‘i is recognized as a language co-equal to English according to Article 15 Section 4 of the State of Hawai‘i’s Constitution. Nonetheless, Kobayashi had granted a motion filed by the prosecution that claimed compelling the court to hire an interpreter would be an *impractical and unnecessary expense*.⁵⁶⁵ The precedent was dangerous. Judicial review of policing Kānaka Maoli could further police ‘Ōiwi language and life, our ea. The Hawaiian language could be disregarded in court and Kānaka Maoli speaking it would vanish from the record. This would be a three-fold technique for elimination. Outlaw speaking ‘ōlelo Hawai‘i in courts, disappear the presence of Kānaka Maoli facing charges, and decimate Kānaka Maoli with bench warrants for being allegedly absent at trials. This, at the same time, would institute new mechanisms for dispossessing ‘āina sacred to Kānaka Maoli, for the development of the astronomy industry, by increasing criminalization to boost removal of Kānaka Maoli on-the-‘āina protecting wahi kapu like Mauna a Wākea and Haleakalā.

However, the State of Hawai‘i’s judiciary sensed the shaky rationale, and it pressured Kobayashi to recall Ka‘eo’s bench warrant. Kobayashi followed orders. The judiciary then amended policy to provide and permit interpreters, in general, and also to allow defendants to operate as their own interpreter.⁵⁶⁶ This was a procedural change that judicial agents of the settler-state openly admit resulted from lacking control over the situation. What is clear in this story is recalling the bench warrant and amending

⁵⁶⁵ Hiraishi, “Maui Telescope Protestor Battles Over Hawaiian Language Use in Court.”

⁵⁶⁶ Andrew Blake, “Hawaiian activist arrested for refusing to speak English in court spurs policy change,” *The Washington Times*, January 27, 2018, <http://www.washingtontimes.com/news/2018/jan/27/hawaiian-ordered-arrested-refusing-speak-english-c>.

procedural policy demonstrate that issuing the warrant created a perilous precedent with an uncertain legal foundation. The tricks have been revealed. Most importantly, this was instantiated by Ka‘eo (see figure 24), who has done what is necessary to challenge



Figure 24. Kaleikoa Ka‘eo representing himself in Maui District Court. Source: *Maui Now*.⁵⁶⁷

astronomy industry development and launched legal defense in ‘ōlelo Hawai‘i. In this way, ‘ōlelo Hawai‘i offers a final gift of sovereignty. Like the emergency rule, “bullet hole,” and knee, the bench warrant was yet another performance of precarity antagonized by Kānaka ‘Ōiwi on the ‘āina specifically in our ‘ōlelo makuahine, our own mother tongue. This was ea in practice, refusing astronomy industry development and protecting the ‘āina and, in the same step, and articulating Indigenous temporal sovereignty in settler-state court. Ka‘eo’s spatial presentation in ‘ōlelo Hawai‘i exposed the limits of settler sovereignty. It is clear that Kobayashi saw and heard Ka‘eo in his court room, but

⁵⁶⁷ Wendy Osher, “Trial Date Set for Maui Man Who Asserts Right to Speak Hawaiian,” *Maui Now*, March 26, 2018, <http://mauinow.com/2018/03/26/trial-date-set-for-maui-man-who-asserts-right-to-speak-hawaiian>.

he marked Ka‘eo to be absent because he articulated a different spatialized temporality with the Hawaiian language. Although a language recognized as co-equal to English by the State of Hawai‘i, ‘ōlelo Hawai‘i enunciates an odd and queer time, in the eyes of the settler-state, that exercises territorial authority and obligations to defend the ‘āina in Hawai‘i. Ka‘eo tested and demonstrated settler juridical time’s spatial shortcomings. In other words, his present presence in ‘ōlelo Hawai‘i was marked spatially absent because of the Indigenous temporal sovereignty embedded within it. Ka‘eo issued a steadfast responsibility to protect ‘āina by defending and perpetuating ‘ōlelo Hawai‘i. This was a fantastic gift of sovereignty, and it continues to lift and guide others in practicing and performing the Kanaka ‘Ōiwi politics of ea. As I have illustrated in this conclusion, the precarious performances of policing continue to be irritated and interrupted as a way of overturning the façade, myth, and emptiness of US settler sovereignty in Hawai‘i.

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