



'AHA ALOHA 'ĀINA

Report to Washington D.C. and New York | JUNE 2016

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Purpose and History

'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. We have undertaken this process through a series of public meetings that utilize the traditional framework of Kino Kālimoku; a process that is independent of control by the State of Hawai'i.

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. Kana'iolowalu and Na'i Aupuni). The Hawaiian leaders who initiated the Hālāwai held the first 'Aha Aloha 'Āina gathering in February, 2016. Since then gatherings have been held and are being planned throughout the islands of O'ahu, Hawai'i, Moloka'i, Kaua'i, Maui and Mokuhonu (the Continent). This series of meetings is to identify the very broad movement in the Hawaiian community for Independence and educate ourselves on the various pathways for Hawaiian governance.

Through the support of our community we have been able to hold 26 free and open to the public 'Aha (gatherings) throughout the islands and on the continental United States, among our Hawaiian diaspora community. Over the last nine months over 2,000 participants have been documented with four more 'Aha planned in the next two months.

For more information go to our website: www.ahaalohaaina.com.

The humble goals of the 'Aha Aloha 'Āina are to:

- 1) Reaffirm our right to Self-Determination and Independence
- 2) Resist and oppose Na'i Aupuni's claims to be the representative voice of our people
- 3) Reject the current DOI endeavor to Federally Recognize nā Kānaka Maoli as a Native Hawaiian Tribe
- 4) Unite our people and reveal the many different ways that our people have been building and rebuilding our Nation over the past several hundred years up to the present



History of Kanaiolowalu & Nai Aupuni: a case of misrepresentation

We, the Hawaiian people, have never relinquished claim to our cultural and political rights, or the sovereignty of our nation. Nor did we cede our nearly three million acres of Crown and Public Lands to the United States of America. This history was acknowledged by United States Public Law 103-150, also known as the Apology Bill.

In 1893, a small group of foreign businessmen overthrew our peaceful, neutral nation with the aid of the U.S. military. In 1897 more than 21,269 signatures were gathered in protest. This number is all the more astounding considering that the population of the Hawaiian Kingdom at the time was approximately 40,000!

Recent scholarship has revealed that the Overthrow and subsequent Annexation of Hawai`i was illegal. According to U.S. law, annexation is possible only through a 2/3 majority of Congress or a treaty of annexation. Neither have ever occurred. Therefore, those acts violated not only Hawaiian Kingdom law and International Law, but also America's own laws.

In summer of 2014, the DOI held a series of hearings on all the major Hawaiian Islands. Thousands of Hawaiians testified overwhelmingly (above 90%) against federal recognition and for complete independence. In spite of this, the DOI chose to discount all oral testimony and instead only count written testimony. This written testimony included thousands of pre-printed pro-Federal Recognition cards of dubious origin. Based on these cards the DOI claims that 70% of Hawaiians are pro Federal Recognition.

Although the overwhelming majority of oral testimony was opposed to federal recognition, Na`i Aupuni was provided with nearly \$2.6 million to convene the Nai Aupuni Aha 2016 (also now referred to as Aloha Lāhui or Hawaiian Nation) and its subsequent governing document. The legitimacy of this undertaking rests on the "participation" of Hawaiians enlisted on the Kana`iolowalu Roll. This "certified list" was the product of the State of Hawai`i Act 195 and its compilation utilized at least \$4 million dollars in Office of Hawaiian Affairs trust monies. However, due to lack of positive community participation, the vast majority of our community did not sign up and the names listed on Kana`iolowalu were rolled over from other registries (such as those for scholarship) through the State of Hawai`i Act 77. Rather than relying on positive community engagement and transparent processes, the final roll that serves to legitimate the Na`i Aupuni `Aha and subsequent governing documents was created without the free, prior consent or even knowledge of many Hawaiians whose names appear on Kana`iolowalu.

One of the key purposes of the `Aha Aloha `Āina gatherings in New York city and Washington, D.C. is share our serious concern that our people are being misrepresented to the U.S. government. We understand that the Council for Native Hawaiian Advancement (CNHA) and the Sovereign Council of the Hawaiian Homelands Assembly (SCHHA) has been erroneously overstating their representative legitimacy on important legal and political issues affecting Native Hawaiians. In particular, we refute their claim that the majority of our people approve the Department of Interior Proposed Rule to Re-Establish Government-to-Government Relationship with the Native Hawaiian Community (DOI 43 CFR Part 50)." In truth, the vast majority of community education on this matter has been taken up by those who are opposed to the DOI proposed rule and are united by the knowledge that the 2016 Na`i Aupuni `Aha and their governing document does not represent us.



Sustainability of Governance in Action

`Aha Aloha `Āina is a 100% community-supported, grassroots organization that utilizes zero tax payer funds and currently utilizes no go grant monies. The question always arises: How is it possible to have 26 gatherings with no official funding? This was done by following some basic principles:

Allowing the time to do things in a pono (balanced, righteous) manner.

No individual group had the time and resources to feed, house, and transport the thousands of people who would come. By starting with an introduction of the process in multiple communities, we began pacing out each `Aha by approximately two per month. Each `Aha is also designed to be completed in three hours so that the conveners are able to maintain and care for their communities, families, and employment.

Malama (care for) and honor the resources of the host community

Every `Aha is focused on identifying the leadership and resources of the host community. Venues were either free or at minimal cost. These included local schools, community centers, and university spaces. Of particular importance at any gathering of leadership is the ability to provide sustenance to the people. “Aloha Kakahiaka e na Hawaii pae aina,” wrote Ryan Sonognini, hunter, farmer and chef. “Pig, caught. Imu, dug. Luau leaf, harvested. Kalua pig, almost pau (finished).... Today, wrap LauLau! Use your land if you of this land. Participate and perpetuate... Aha Aloha Aina!” The food for the Kaneohe Aha was primarily provided by Sonognini. He spent the time leading up to the Aha hunting, gathering in the mountains, and harvesting food that he had planted. That particular `aha fed approximately 450 people.

Creative use of modern technology

With a diaspora in which more than half of our 577,000 Kānaka Maoli cannot afford to live in Hawai`i, we needed a means to connect our entire community in every corner of the continental United States. Dr. Kū Kahakalau, an incredibly innovative and brilliant leader in the realm of traditional to modern Kānaka Maoli education, was already utilizing an online conference tool. We began utilizing this tool to connect everywhere ... without the limits of travel funding

Trust of the community

Trust is the fundamental basis of our success. It would have been impossible to hold more than two dozen `Aha without earning the trust of our community. `Aha Aloha `Āina only occur when invited and are always convened by leaders with trust and influence in their community. The entire cost for all gatherings has only been a few thousand dollars. An incredibly small amount given the size, breadth, and depth of the gatherings. The costs were paid out of pocket by both the organizers and the respective communities because the resultant education and unification was considered worth the expense. In order to maintain that community trust, `Aha Aloha `Āina does not rely on funding from the Office of Hawaiian Affairs, Na`i Aupuni, or Kana`iolowalu, which have collectively spent millions of dollars without first gaining the trust of our people.



Kino Kālainmoku: How do we reconnect the kino of our nation?

The cultural basis of `Aha Aloha `Āina is the Kino structure of government (kālainmoku or civil polity). It comes from the most ancient conception we have of healthy Kānaka Maoli (aboriginal Hawaiian) governance, as related by the prominent nineteenth century Hawaiian scholar, Davida Malo.

While the Kino had been studied extensively, it was four students at the University of Hawai`i in Hilo who rediscovered and initiated a new method of utilizing the Kino Kālainmoku. These students – Kalaniākea Wilson, Lākea Trask, B. La'akea Carvalho, Kepa Kaolulo Ka`eo – reinvigorated this ancient practice when they successfully organized an effort to honor the Hae Hawai`i (Hawaiian flag) on their college campus.

The Kino resonates in the Hawaiian community despite the 1893 overthrow of the Hawaiian Kingdom which fractured and scattered the body of our nation. It does so because since the overthrow our nation has survived in pockets, where many have cared for their kuleana (responsibilities) in secret. As a result, our people can identify that a healthy whole is one in which all aspects of the Kino are united, not just in government but in every community and every individual.

The process of reconnecting begins by identifying your place in the Kino and how it connects to others. In order to update it to modern times, we added the following descriptions.

- 1) **Kahuna:** Experts of a field (spiritual leaders, educators, healers)
- 2) **Nā Koa:** First protectors (warriors, kia'i or guardians, law enforcers, firefighters)
- 3) **Māno Wai:** Weavers and connectors (communications, media, information technology, artists, writers, singers)
- 4) **Mahi`ai and Lawai`a:** Providers of sustenance (farmers, fishermen, hunters, gatherers, chefs)
- 5) **Kālainmoku:** Governance (politicians, lawyers, economists)

The next step is to work together as one body to determine an answer to a key problem or question.

The most ancient conception of healthy Kanaka Maoli governance

“The word kalaimoku related to the civil polity, or government, of the land. The government was supposed to have one body (kino). As the body of a man is one, provided with a head, with hands, feet and numerous smaller members, so the government has many parts, but one organization.

The corporate body of the government was the whole nation, including the common people and chiefs under the king. This is seen to be the case from the fact that in a country where there are no people there is no government, as on Kaula and Nihoa. The king was the real head of the government; the chiefs below the king the shoulders and chest. The priest of the king's idol was the right hand, the minister of interior (kanaka kālainmoku) the left hand of the government. This was the theory on which the ancients worked.*

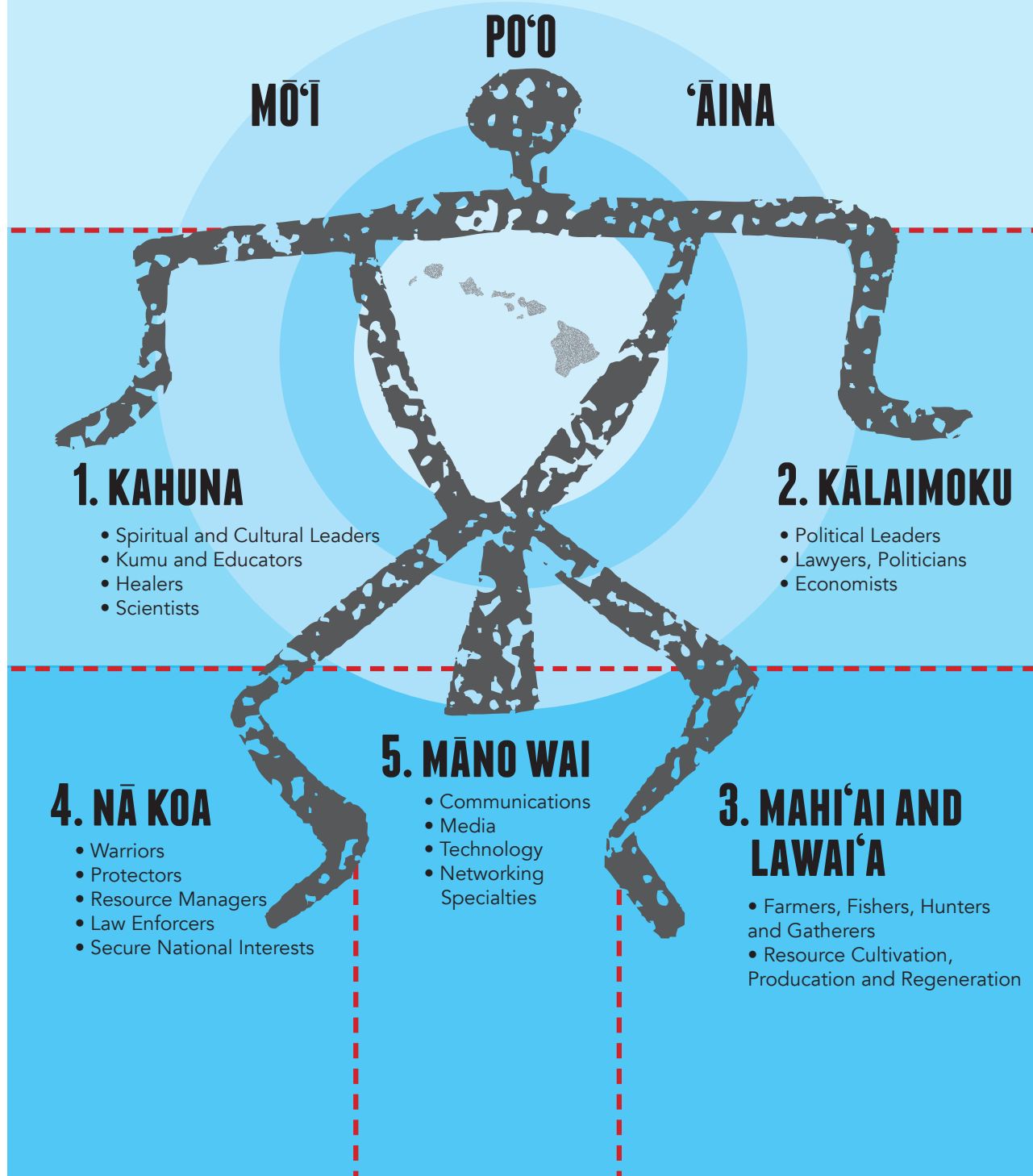
The soldiery were the right foot of the government, while the farmers and fishermen were the left foot. The people who performed the miscellaneous offices represented the fingers and toes. The unskilled and ignorant mass of people were sometimes termed hu, sometimes maka`āinana.”

Hawaiian Antiquities, David Malo 1838



the KINO

THE CIVIL POLITY | HAWAIIAN GOVERNANCE



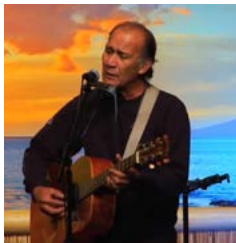
'AHA ALOHA 'ĀINA

‘Aha Aloha ‘Āina Representatives to Washington D.C.



Dr. Kalamaoka ‘āina Niheu, MD is a co-founder and convener for ‘Aha Aloha ‘Āina. She is a founding member and Kauka (Physician) for Onipa ‘a Nā Hui Kalo, the Hawai‘i wide traditional taro farmer’s association, a Medical Officer in the Polynesian Voyaging Society for Hōkūle‘a, a Board Member of ‘Ahahui o Nā Kauka, and has served as Hawai‘i Representative to the United Nations as a member of the Pacific Caucus. As one of approximately 800 Indigenous Peoples who gathered in Alta, Norway in 2013 she helped craft the Alta Outcome Document as an extension of the United Nations Declaration on the Rights of Indigenous Peoples. Her published works include “Pu‘uhonua: Sanctuary and Struggle at Makua, Hawai‘i” and “The Effect of the Military on the Health of Native Hawaiians.”

Liko Martin, Haku Mele, is one of Hawai‘i’s most renowned songwriters and longstanding activists.



He is the founder or co-founder of many major organizations (e.g. Mountain Apple Productions, the Hawaiian Coalition on Native Claims, now known as Native Hawaiian Legal Corporation, and first Executive Director of KEY Project). He is also a farmer, fisherman, general cultural practitioner, peacemaker and veteran. He is the Kupuna Advisor for Ho‘opae Pono Peace Project, an Affiliate of Seventh Generation Fund for Indigenous Peoples, and a recognized Fellow of the Native Arts and Cultures Foundation.

Laulani Teale, MPH, is a musician, artist, cultural practitioner (la‘au lapaau, ho‘oponoponpo), public health practitioner with specialties in indigenous and warrior health issues, and web/social media developer (her most recent website is olakanaka.org, a Hawaiian health resource for Papa Ola Lōkahi). She is the Coordinator for Ho‘opae Pono Peace Project as well as its lead cultural facilitator/ peacemaker, and a longtime activist.



Raul Nohea Goodness is a Kānaka Maoli software developer from Wailuku, Maui, and a longtime resident of NYC. He became involved with issues related to Hawaiian governance and organizing. Due to his experience as a Na‘i Aupuni ‘Aha 2016, he is opposed to the Dept. of Interior’s proposed rulemaking for creating a Native Hawaiian Governing Entity or any other process that suppresses any restoration the Hawaiian nation and theft of its national lands



Lisa Noelani Robbins is a finance professional and a cultural, food, kupuna, and financial sustainability advocate. She is a member of WIFS (Women in Financial Services), NAIFA (National Association of Insurance & Financial Advisors, and NAPA (National Association of Professional Agents), Kamehameha Schools East Coast Alumni Association and the Tulipa Hawaiian Civic Club. A descendant of Ku‘e Petitioners, she considers herself a representative of the Ka Hui Aloha ‘Āina ‘o Nā Wahine and their best interests.



Members of Our Coalition

Community Groups and Leaders:

`Ahupua`a o Polipoli a Ahikuli Aloha `Āina O Nā Ko`olauloa
Aloha `Āina Party
`Āina Lāhui
Destination Restoration
Exillion (DJ Keawekane)
Hawai`i Common Law Grand Jury
Ho`opae Pono Peace Project
John Munn Kahikina Kelekona Foundation
Ka Hui Hawai`i Aloha `Āina – The Hawaiian Patriotic League
Ka Hui Hawaii Aloha `Āina o Las Vegas
Kanaka Maoli Religious Institute
Ko Hawai`i Polokika
Kai `Ula Pono`i Texas Hawaiian Civic Club
Ka Lei Maile Ali`i Hawaiian Civic Club
Kingdom of Hawai`i (Free Hawai`i)
Kū`ē Petitions Moku o Keawe Group
The Koani Foundation
Lawful Hawaiian Government
Moana Nui
Kūpuna a me Nā Kāko`o o Hālawā
Nation of Hawai`i
Native Hawaiian Organization Charity
Order of Kamehameha
Papakolea Community Association
Protest Na`i Aupuni
Sacred Mauna Kea Hui – He Maka Hiapo Na Wākea
Unified Hawai`i

Businesses:

Aloha Truth Café
Artemis Smiles Honeybee Sanctuary
Black Koa
Kamaki's Authentic Hawaiian Adventures
Maui Salt and Sage
Service Cater Kailua Kona
Uncle Robert`s Awa Bar and Farmers Market
Waimea UPS Store

Educational and Student Groups:

Kū-a-Kanaka LLC
Nā Maka o Ka `Āina
Nā Wahine Aloha `Āina University of Hawai`i at Hilo Student Group

Cultural Groups:

Pua Ana Ka Malanai Hula School
`Ohana Arts and Hula Studio LLC

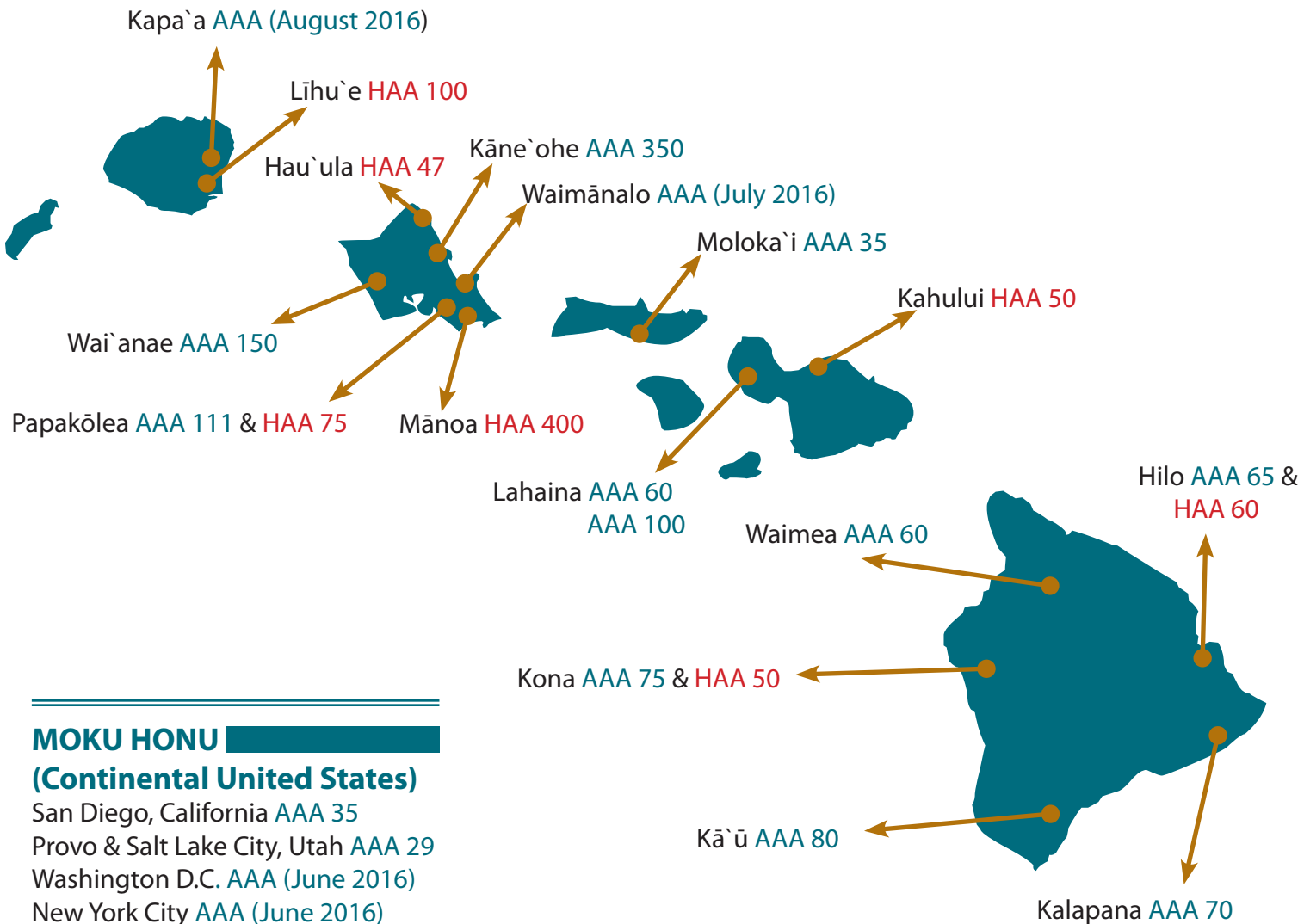
Farmers:

Hanakehau Learning Farm
Keawanui Fishpond with Walter Ritte
Lau kapalili Laukapalala Farms with Uncle Danny Bishop
Lili`u Farms



ATTENDANCE TOTALS

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



TOTAL ATTENDEES: 2,002*

*From October 2015 through May 2016

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



APPENDICES

Declaration Reaffirming Independence & Protesting Na'i Aupuni and United States Federal Recognition

Whereas Kanaka Maoli are the first peoples of Ko Hawai'i Pae 'Āina (the Hawaiian Archipelago) since time immemorial;

Whereas the Kingdom of Hawai'i was recognized as a nation in 1843 by the then Family of Nations;

Whereas the multi-ethnic Kingdom of Hawai'i – the majority of which were Kanaka Maoli – was overthrown in 1893 by a small clique of American businessmen with the assistance of the United States (US) military;

Whereas the living descendants of the citizens of the Kingdom of Hawai'i, like their ancestors, continue to assert unrelinquished sovereignty over Ko Hawai'i Pae 'Āina;

Whereas in 2014 the Department of Interior (DOI) ignored all verbal testimony for restitution, reconciliation, self-determination, and Independence as the DOI continues to pursue the path of Federal Recognition for Hawai'i;



Therefore, be it resolved that we the undersigned:

Reaffirm our right to Independence and self-determination;

Repudiate Na'i Aupuni's false claim to be the representative voice of the Kanaka Maoli people;

Reject the present and future US attempts through the DOI to Federally Recognize the Kanaka Maoli people on a par with a Native American Tribe under the document entitled "Procedures for Reestablishing a Formal Government-to-Government Relationship with the Native Hawaiian Community;"

Assert our commitment to Uphold and Honor the ongoing endeavors to rebuild our Lāhui via, among other 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 kūpuna gifted us;

Finally, **we shall Unify** all efforts to **create** an Independent Hawai'i, and so **restore** Ko Hawai'i Pae 'Āina to the descendants of the Hawaiian Kingdom **for a better future** for generations to come...

GO TO www.ahaalohaaina.com TO JOIN THE MOVEMENT!

Declaration from Lāhui Kanaka Rejecting and Condemning Na'i Aupuni 'Aha

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.

The 'Aha 2016 stems from a top-down approach in which all of the terms: the use of Hawaiian trust monies; participation; timeline; representation; the convention, and outcomes have been determined by a small number of people, including former Governor Abercrombie; the State legislature; the Governor-appointed Kana'ioloalua commissioners; the OHA Board of Trustees; the OHA-selected Na'i Aupuni Board; and approximately 150 self-appointed 'aha participants. Each of these parties is complicit in driving an agenda that has divided our people more than ever.

In addition to this deeply flawed process, the 150 individuals who have not been elected or vetted have nevertheless decided to produce governing documents that will attempt to create a governing body on behalf of the Hawaiian nation in a private meeting. This approach violates the most basic principles of self-determination, upholds the status quo, and must be rejected.

The undersigned demand that the 'Aha 2016 cease and desist from continuing to produce any *governing documents*. We stand in opposition to any attempt by individuals or organizations selected and sponsored by the State of Hawai'i to speak for the Hawaiian nation or to determine our future. We support an open and transparent process that is based on education, consultation, consent and unity.

We call upon the 'Aha participants to join us in demanding nothing less than an initiative envisioned and designed by the lāhui, open to all kānaka who wish to participate, free from conditions that we had no part in creating. Such a process should include an appropriate time frame for such an important task; it should be open; and it should be free of any State of Hawai'i interference, control or prescribed destiny.

Jonathan K. Osorio
Kaleikoa Ka'eo
Andre Perez
Camille Kalama
Terri Keko'olani

Kahele Dukelow
Keli'i Skippy Ioane
Kaho'okahi Kanuha
Hanohano Naehu
Ho'oleia Kaeo

Walter Ritte
Loretta Ritte
Noe Goodyear-Ka'ōpua
'Ilima Long
Earl DeLeon

Kalaniua Ritte
Lynnette Cruz
Joe Kanuha
Willy Kauai
Kalamaoka'aina Niheu



SIGN THE PETITION! www.protestnaiaupuni.com



Na'i Aupuni **GATED 88 CONSTITUTION**

EXCLUSIVE Pono'ole PROCESS

- The Kana'iowalu Roll was created by the "State of Hawai'i" via Act 195 in 2011 and given millions of dollars by the Office of Hawaiian Affairs (OHA), a State agency, with a goal to enroll 200,000 Hawaiians in order to create a paper Hawaiian Nation.
- By 2013 Kana'iowalu only enrolled between 19,000 and 40,000 Hawaiians so the State of Hawai'i passed Act 77 allowing 80,000 names to be transferred over from three OHA lists to the Kana'iowalu Rolls without the free, prior, and informed consent of the Hawaiians on the lists.
- Kana'iowalu then certified and transferred 95,000 names to Na'i Aupuni, an entity that received \$2.6 million dollars from OHA to facilitate the creation of a puppet Hawaiian nation. Although certified, hundreds on the Roll were deceased.
- Na'i Aupuni held their 'Aha 2016 from February 1 through February 26 seating 151 unelected delegates from the Kana'iowalu Roll who were tasked with creating a governing document without any mechanism of accountability to the Hawaiian people.
- Na'i Aupuni required that Hawaiians be on the Kana'iowalu Roll in order to participate in their 'Aha 2016 cutting out between 80-90% of the Hawaiian people.
- The Na'i Aupuni 'Aha 2016 convened in a **GATED**, exclusive golf club with heavy security - shutting Hawaiians out of the process.
- The unelected participants voted to exclude non participant observers and to ban a group of Hawaiians from presenting their declaration in person to the 'Aha 2016 culminating in the arrests of 8 Hawaiians for trespassing on February 22. The declaration has to date been signed by over 750 people.
- The Na'i Aupuni 'Aha 2016 participants *rushed* to create a Constitution in only 20 days which was adopted by only **88** of the original 151 participants. By comparison, it took the US more than 10 years to write their constitution after their Declaration of Independence.
- The Na'i Aupuni Gated 88 (NAG 88) Constitution is a flawed document that was created out of a rushed State sponsored process that excluded the vast majority of the half million Hawaiians alive today.

Don't RUBBER STAMP the GATED 88 CONSTITUTION

- The Na'i Aupuni 'Aha 2016 is a State sponsored initiative that violates the Hawaiian peoples collective rights to Self-Determination as defined by the United Nations. Self-determination is **not** a right of governments; state or federal agencies.
- The NAG 88 Constitution requires ratification or the **rubber stamp** of the Hawaiian community to fulfill the requirements outlined in the Department of Interior Proposed Rule to set up a federally recognized "Native Hawaiian" Nation. The DOI Rules do not provide for the return of lands except for the island of Kaho'olawe and takes all federally controlled Hawaiian lands off the table.

- If ratified by the Hawaiian people, the NAG 88 Constitution will potentially create a US recognized Hawaiian "sovereign" entity to settle once and for all Hawaiians rights to nearly 2 million acres of National Hawaiian lands aka "ceded lands".

www.protestnaiaupuni.com | #nag88con #nag88



Secretary Sally Jewell
Office of the Secretary
Department of the Interior, Room 7228
1849 C Street NW
Washington, DC 20240

December 30, 2015

Regulation Identifier Number 1090-AB05

Testimony in Opposition to Proposed USDOJ Rule Making for Federal Recognition of a
"Hawaiian Nation"

This testimony, in strong opposition to the proposed USDOJ Rules for Federal Recognition, is submitted on behalf of Ka Lāhui Hawai`i, a Native initiative for self-governance, Na Koa Ikaika Ka Lahui Hawaii (Na Koa), an indigenous NGO with ECO-SOC status through the Indigenous World Association (IWA) and the Kai Ula Pono`i Hawaiian Civic Club of Texas, hereinafter referred to as the Parties.

The Parties are organizations whose members are indigenous Hawaiians (HHCA-eligible Native Hawaiians and Native Hawaiians) who are beneficiaries of the Ceded Lands Trust and Hawaiian Homelands Trusts.

Ka Lāhui Hawai`i is a native initiative for Hawaiian self-governance formed by and for Native Hawaiians without the interference of State or Federal agencies. Ka Lāhui Hawai`i is the evolutionary product of years of legal research, community dialogues, meetings, and workshops. We also have engaged in nation building with Native Hawaiians without State and Federal government interference. From 1987, we enrolled over 20,000 citizens from our islands and on the U.S. continent, convened 3 Constitutional Conventions, held over 35 legislative sessions, conducted 4 general elections with the assistance of the League of Women Voters, ratified 14 treaties of mutual recognition and friendship with Inuit and Indian Nations, sent diplomatic liaisons to the United Nations, and sent delegations to Washington, D.C. to lobby Congress on behalf of Hawaiian entitlements and programs. In addition, Ka Lāhui Hawai`i has actively testified on issues at the Federal, State, County, and community levels, published newsletters and other educational materials, and convened numerous community educational meetings on sovereignty and other critical issues facing our community like protecting sacred lands and advocating for water rights. Ka Lāhui Hawai`i has also conducted hundreds of community workshops in Hawai`i and on the U.S. continent to exercise our peoples right to Self-Determination believing in the advancement of our efforts to be self-governing. The Constitution of Ka Lāhui Hawai`i available at <https://kalahuihawaii.files.wordpress.com/2009/10/ka-lahui-hawaii-constitution-1993.pdf> and the Ho`okupu a Ka Lāhui Hawai`i, the Ka Lāhui Master Plan for Hawaiian sovereignty available at <https://kalahuihawaii.files.wordpress.com/2009/>

10/master-plan.pdf is herein incorporated in its entirety by reference to this testimony. To build on this long history of self-determination work and in honor of our citizens who have passed away, Ka Lāhui Hawaiʻi leadership stands in opposition to Naʻi Aupuni and the US Department of Interior's (DOI) Proposed Rules.

The Parties oppose the USDOI Proposed Rules for the following reasons:

1. The Proposed Rules and DOI process violate the right of Hawaiian indigenous peoples to Self Determination and numerous other Fundamental Human Rights set forth in the UN Declaration on the Rights of Indigenous Peoples, and the International Human Rights Conventions.

Self-determination is not a right of governments or state or federal agencies. It is the collective right of "Peoples" including Indigenous Hawaiian Peoples. This means that the Hawaiian peoples are the only group that has the power to "define their political status" and ultimately, determine citizenship in a nation of their own creation. Once the people have exercised this power, the nation formed has the right and authority to freely pursue social development through programs for housing, education and health. It has the right to freely pursue cultural development by preserving Hawaiian language, protecting sacred sites and maintaining cultural practices. It also has the power to pursue economic development, including the power to tax, to trade under traditional treaties and to engage in and license others to engage in business in order to raise revenues and be economically self-sufficient.

2. The Proposed Rules and DOI process do not come from the Hawaiian peoples, but are part of an ongoing effort by the United States and State of Hawaii to deny Hawaiian indigenous peoples access to their lands, territories and resources and their inherent right to determine their political status and pursue their economic, cultural and social development.

History of Ongoing State/Federal Efforts to Create a Hawaiian Nation.

In 1991, the State created the Sovereignty Advisory Council (SAC) in Act 301. As part of OHA's budget, the State provided SAC with up to \$200,000 to develop a plan to discuss and study the sovereignty issue.

On the heels of the 100th commemoration of the illegal overthrow of the Kingdom of Hawaii in 1993, the State established the Hawaiian Sovereignty Advisory Commission (HSAC) in Act 359. Under this legislation, the State appropriated \$420,000 to hold "a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing."

The next year, the State amended Act 359 with the passage of Act 200 creating the Hawaiian Sovereignty Elections Council (HSEC). The State appropriated up to \$1.8 million to HSEC to hold "a plebiscite in 1995, to determine the will of the indigenous Hawaiian people to restore a nation of their own choosing."

Ka Lāhui Hawaiʻi and other community organizations opposed the SAC/HSAC/HSEC state driven initiatives, and called for a boycott of the process. We had grave concerns that this referendum or plebiscite would be used as evidence that the indigenous Hawaiian people relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, in direct contrast to our peoples history of resistance as acknowledged in the Apology Resolution, which provides that "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."

After Ka Lāhui Hawaiʻi and other community organizations called to boycott the process for nearly two years, a month before the election was to be held, the State amended Act 200 by passing Act 140 in 1996. The new State law specifically changed the requirement that the plebiscite be approved by a majority of "qualified voters" to "ballots cast." In other words, the State first created a process that required a majority of the approximately 85,000 Native Hawaiians to approve. However, the new law required only a majority of all votes cast in order to approve the plebiscite.

On July 15, 1996, HSEC sent out ballots to approximately 85,000 Native Hawaiians. 30,423 ballots were returned, of these ballots, 22,294 voted yes to the question "Shall the Hawaiian People elect delegates to propose a Native Hawaiian government." Ka Lāhui Hawaiʻi and other community groups claimed a victory due to the low turnout. However, the State claimed a victory by looking at the majority of the ballots cast. Consequently, this State initiated process continued with Ha Hawaiʻi and ʻAha Hawaiʻi ʻOiwī.

The Akaka Bill

Hawaiʻi's Congressional delegation introduced the first version of the Akaka bill, S. 2899/H.R. 4904 in 2000, authorizing a process for the reorganization of a Native Hawaiian government and to provide for the recognition of the Native Hawaiian government by the United States. Hearings were held on Oʻahu and not on any other island. Over the next decade, Congress proposed multiple versions of the bill. But the changes and versions that followed were done in Washington DC without the input of the Native Hawaiian people. In stark contrast, the changes reflected input from state agencies like OHA and a select few individuals from the Hawaiian community who continue to push an agenda that excludes the vast majority of Hawaiians from the process.

The Native Hawaiian Roll Commission/Kana`iolowalu Was Created by the State

In 2011, the State established the Native Hawaiian Roll Commission in Act 195 to prepare and maintain a roll of qualified Native Hawaiians defined initially in the law as 1) "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" 2) "an individual who is one of the indigenous, native people of Hawaii and who was eligible in 1921 for the programs authorized by the Hawaiian Homes Commission Act, 1920, or a direct lineal descendant of that individual." The law also required that a qualified Native Hawaiian "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 is eighteen years of age or older." Funding for the Native Hawaiian Roll Commission was provided by OHA while no other community organization was provided money to conduct any kind of educational campaign in opposition to this initiative.

As noted in a Civil Beat article dated October 27, 2015 by Trisha Kehaulani Watson, within the first two years of implementation (between the signing of the Act in 2011 and September 2013), less than 19,000 Hawaiians enrolled out of over 500,000 nationwide, despite having a \$4 million budget from OHA. To inflate this low enrollment, the State passed Act 77 in 2013 expanding the definition of "qualified Native Hawaiian" to include "an individual who meets the ancestry requirements of Kamehameha Schools or of any Hawaiian registry program of the office of Hawaiian affairs," immediately swelling the roll to over 107,000 names. It is this roll that Na`i Aupuni is using to conduct its election of delegates to a constitutional convention, or `Aha. At the heart of self-determination is deciding to participate in any process and not have the State determine participation by defining a qualified Native Hawaiian.

The US Department of Interior's Proposed Rules

The US Department of Interior (DOI) has issued proposed rules to create an administrative procedure for re-establishing a government-to-government relationship with the Native Hawaiian community. These proposed rules follow the Advanced Notice of Proposed Rulemaking issued last year where the vast majority of those who testified at public hearings expressed opposition to the DOI's proposal. Nevertheless, thousands of identical postcards submitted as part of a concerted effort of political insiders intent on securing federal recognition was used to justify the DOI's proposed rules. Interestingly, portions of the proposed rule would allow a roll of Native Hawaiians certified by a State of Hawaii commission like Kana`iolowalu that is being used by Na`i Aupuni to determine participation when the large majority of the names on the roll came from different OHA lists and registries without the free prior and informed consent of those who signed on to those prior lists and registries including one registry that was used to qualify for OHA programs such as loans, grants and scholarships. The roll also includes deceased Native Hawaiians as noted in an Indian Country Today article

by Randall Akee and Noelani Arista published on November 20, 2015.

Summary of State/Federal Efforts to Create a Hawaiian Nation

The record reflects that none of these initiatives came from the Hawaiian “Peoples” and all were in fact created by State and Federal bodies. SAC/HSAC/HSEC and the Native Hawaiian Roll Commission/Kanaʻiolowalu are all State bodies, created by State procedures. The Akaka Bill and the US Department of Interior's proposed rules were drafted in Washington DC without any input from our broader community. None of these groups represents the Hawaiian Peoples. Consequently, these efforts cannot be viewed as legitimate reflections of the Hawaiian peoples desire for Nationhood or a valid expression of our peoples right of Self-Determination.

The record further indicates that for years the State and Federal Government have tried unsuccessfully to manipulate Hawaiians into approving a governmental structure that would limit political power or authority. As a result of this limited power, our peoples vast trust lands and resources would continue to be controlled by the State and Federal bodies that control them now.

3. The US DOI proposal, if implemented, will result in an outcome that is “unconstitutional” and a violation of the 14th and 15th Amendments of the US Constitution.

3a. 14th Amendment issues: Inequality among recognized Indigenous Nations under the US System.

The USDOI Rules contemplate the creation of a federally recognized indigenous Hawaiian nation, but it will be subject to significant restrictions not imposed on federally recognized ‘Indian’ Nations. For example:....

As explained in the two US DOI memo’s released in late September 2015 (links are as follows: <https://www.doi.gov/pressreleases/interior-department-proposes-pathway-re-establishing-government-government> and <https://www.doi.gov/sites/doi.opengov.ibmcloud.com/files/uploads/FAQs%20on%20NPRM%20Part%2050%209.29.15%20%281%29.pdf>), the ‘Recognized’ Hawaiian Nation will not have any share of our peoples Ceded lands trust or Hawaiian Homelands but will be only given Kahoolawe Island. (Kahoolawe was used by the US as a bombing target for years and is still littered with bombs. No one lives there.) One of the most objectionable provisions in the DOI proposed rules is § 50.44(f), which states that "reestablishment of the formal government-to-government relationship will not affect the title, jurisdiction, or status of Federal lands and property in Hawaii," which amounts to 898,637 acres in the main Hawaiian Islands and over 88 million acres of the Papahānaumokuākea Marine National Monument. This provision should be removed from the DOI proposed rule.

The 'Recognized' Hawaiian Nation will not have any of the powers the 'Recognized' Indian Nations have. It will not have taxing authority, the ability to zone or develop our trust lands for housing, education or health etc. This means that some 'Recognized' native nations in the USA will have rights other 'Recognized' native nations are not allowed to have. A clear violation of the 14th Amendment. The 'Recognized' nation will not be able to access federal laws appropriating federal funds for other classes of Native Americans as referenced in § 50.44(d) of the DOI proposed rule. For example, Hawaiian children removed from Hawaiian families will not have the protections of the Indian Child Welfare Act (the right to be placed with Hawaiian foster homes) etc. Hawaiian trust lands under control of the USA and State will continue to be under Federal and State control. Wardship will be maintained. Hawaiians will be "Beneficiary-Wards" of state & federal government and these entities will continue to control our trust resources. The vast majority of Hawaiian peoples are being disenfranchised by the process. There are approximately 577,000 Hawaiians in the US, less than 19,000 have been registered by Kana`iolowalu and thousands have been added to a list without their free prior informed consent and approval. These numbers confirm that the overwhelming majority of Hawaiians are not included in this process. Hawaiians will forever be denied their right of Self-governance and Self-determination. The DOI Memo's verify that once the US confers "recognition" on the Na'i Aupuni Nation, the US will never again 'recognize' a Hawaiian Nation as referenced in § 50.43. These objectionable provisions should be removed.

3b. 15th Amendment Issues: Unconstitutional State Action

The State's creation of the Native Hawaiian Roll Commission/Kana`iolowalu and defining a qualified Native Hawaiian is the very process deemed to violate the 15th amendment of the US Constitution by the US Supreme Court in *Rice v. Cayetano*. The attempt to have Na'i Aupuni conduct the election as opposed to the State Office of Elections in order to withstand legal challenge will likely be unsuccessful since the US Supreme Court in *Akiona v. Hawaii* earlier this month enjoined counting the ballots cast and certifying winners of the Na'i Aupuni election pending final disposition of the appeal by the US 9th Circuit Court of Appeals. A motion for civil contempt in response to Na'i Aupuni's decision to terminate the election process has already been filed with the US Supreme Court. Despite the US district court's decision denying the injunction and in light of the ongoing legal challenge, the Parties specifically object to those portions of the USDOJ proposed rule, § 50.12(a)(1)(ii) and § 50.12(b), that would allow a roll of Native Hawaiians certified by a State of Hawaii commission like Kana`iolowalu that is being used by Na'i Aupuni to determination participation. Those provisions should be removed. Additionally, the roll certified by Kana`iolowalu does not include individuals who have affirmatively demonstrated consent to be listed as required under the definition of "tribal roll" in 25 CFR 83.1. Advertising and allowing an individual to opt out is not the same as an individual affirmatively demonstrating consent to being listed.

Conclusion:

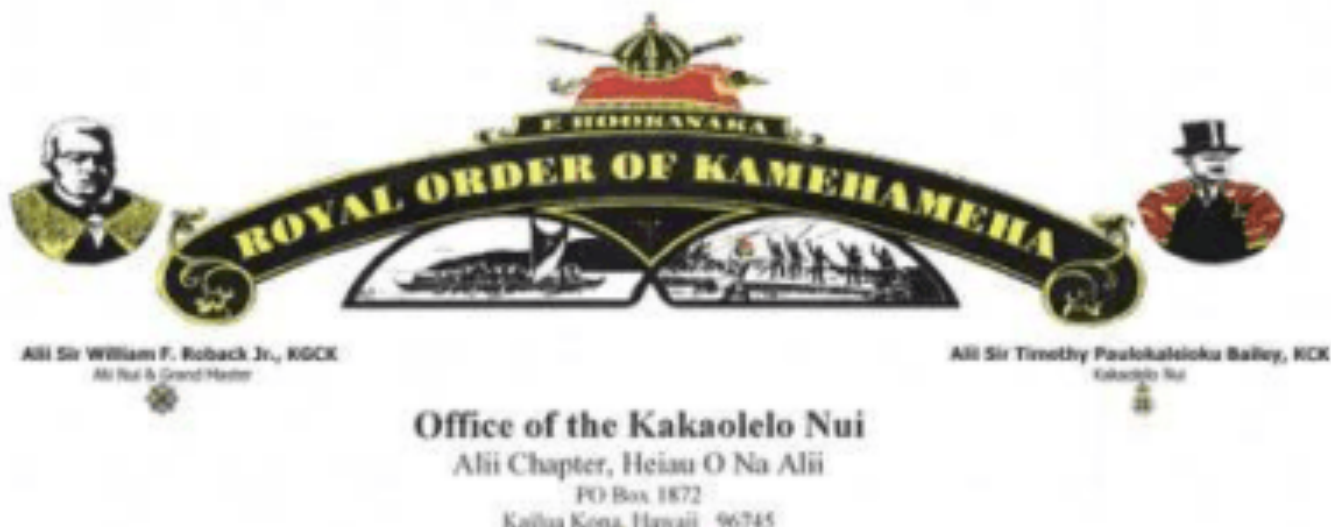
1. The Parties strongly oppose the proposed USDOJ Rules for Federal Recognition.
2. The following provisions of the proposed USDOJ Rule should be removed:
§ 50.12(a)(1)(ii) and § 50.12(b) that would allow a roll of Native Hawaiians certified by a State of Hawaii commission like Kanaʻiolowalu that is being used by Naʻi Aupuni to determine participation and is currently subject to legal challenge; § 50.43 recognizing the Native Hawaiian Governing Entity as the sole representative sovereign government of the Native Hawaiian community; § 50.44(d) that the Native Hawaiian Governing Entity will not be able to access federal laws appropriating federal funds for other classes of Native Americans; and § 50.44(f), which states that "reestablishment of the formal government-to-government relationship will not affect the title, jurisdiction, or status of Federal lands and property in Hawaii," amounting to 898,637 acres in the main Hawaiian Islands and over 88 million acres of the Papahānaumokuākea Marine National Monument.
3. The Parties request the USDOJ and Justice come to Hawaii to participate in "Consultations" under the UN Declaration on the Rights of Indigenous Peoples. Specifically, we are requesting that meetings be held with indigenous Hawaiians on each island and the US Continent on the USDOJ Proposed Rules. Previous hearings were scheduled for the "public" none were held for the indigenous peoples;
4. The Parties request the USDOJ and Justice focus on fulfilling the existing trust responsibilities they are utterly failing right now.

Submitted by:

Mililani Bernardette Trask, Josiah "Black" Hoʻohuli, and Lehua Kinilau, Nā Kiaʻāina of Ka Lāhui Hawaiʻi

Mililani Bernardette Trask, Na Koa Ikaika Ka Lāhui Hawaiʻi

Melissa Moniz, Kai Ula Ponoʻi Hawaiian Civic Club of Texas



March 16, 2016

Mr. Kamanaopono Crabbe
Chief Executive Officer, Office of Hawaiian Affairs
560 N. Nimitz Highway, Suite 200
Honolulu, HI 96813

SUBJECT: Opposition of the Native Hawaiian Nation Constitution

Under the Authority of the last hereditary Sovereign and the 1864 Constitution of the Kingdom of Hawaii, King Kamehameha V established the Order of Kamehameha I, via Royal Decree at a Privy Council of State held at Iolani Palace on April 11, 1865.

The Royal Decree of 1865 has in perpetuity established the Royal Order of Kamehameha's mission and kuleana set forth by the 1864 constitution of Our Kingdom and his Majesty Kamehameha V. This Sovereign authority continued throughout the Democratic Monarchy, Provisional Government, Republic, Territory and Statehood, by the members of This Most Noble Order. The Sovereign still continues today as the Kingdom still exists.

The mission of the Order was to cultivate and develop among our subjects the feelings of Honour and Loyalty to our Dynasty and to confer honorary distinctions upon such of our subjects & foreigners who provided important services to the Kingdom and its People. Our Order has continued to exist as a viable institution of the Kingdom of Hawaii since its establishment in 1865 and up to this present day.

It is this steadfast continuity of our Kingdom, still in existence today, that we oppose the Native Hawaiian Nation Constitution that was adopted by unelected participants of the Nai Aupuni aha on February 26, 2016.

- The Kingdom of Hawaii still exists
- We recognize the Kue Petition as a clear and strong voice of our ancestor's opposition to the annexation of the Kingdom of Hawaii to the United States in 1897-1898
- We will always uphold the truth of what has happened to our Kingdom and insure no further harm will fall upon it
- The Order cannot & will not support any actions of others that continue to divide our people

SUBJECT: Opposition of the Native Hawaiian Nation Constitution
Page 2

The approach and process of this Nai Aupuni movement is in conflict with the last approved (1864) Constitution of Our Kingdom and therefore cannot be drafted by a system that claims to have overthrown our Kingdom and then apologizes for its wrong doing.

To reiterate the 1994 Proclamation made on the sovereign grounds of Mauna Ala by the Order and its members, "The Kingdom of Hawaii still exists"! Therefore any actions made outside the guidance of our 1864 Constitution that affects our Kingdom, is unacceptable. We do not recognize this effort by Nai Aupuni.


Alii Sir Timothy Paulokaleioku Bailey, KKK
Kakālelo Nui



cc. OHA Statewide & Washington DC, Nai Aupuni, Honolulu Civil Beat, Lawful Hawaiian Government, Acting Hawaiian Government, +



photo credit: P.F. Bentley

Critical legal, historic and economic perspectives on Federal Recognition and Indigenous Governance

STUDENT RECEPTION



with
Randall Akee
Noelani Arista
Mishuana Goeman
Noelani Goodyear-Ka'ōpua



Thursday, November 12,
2015
3:30-5:00 p.m.
Hālau O Haumea

Food provided!

RSVP:
naneaclo@hawaii.edu

What is Na'i Aupuni, the
Native Hawaiian roll, or
state or federal
recognition?

Come talk story about
these issues and more
with four Native scholars
from UHM and UCLA.

An informal session for
students to meet scholars
who will be speaking more
formally later in the evening.



Photo Credit: Cory Lum/Civil Beat

Recognition Issues: Critical Legal, Historical and Economic Perspectives on Federal Recognition and Indigenous Governance

Thursday, November 12, 2015

5:30-7:00 p.m.

Hālau O Haumea, University of Hawai'i at Mānoa

The U.S. Department of the Interior recently published a proposed administrative procedure that can be used "if the Native Hawaiian community forms a unified government that seeks a formal government-to-government relationship with the United States." Such a procedure could have far-reaching impacts on the Hawaiian community. What is the genealogy of US recognition frameworks? What has federal recognition looked like for different Native American nations? What does the history of Hawaiian Kingdom constitutionalism have to tell us about possibilities for government building in the present? This panel brings together three Indigenous scholars who will raise critical issues to consider as a potential pathway to U.S. federal recognition opens.

Panelists:

Randall Akee is Assistant Professor of Public Policy and American Indian Studies at UCLA. He is a Kanaka Maoli scholar with extensive knowledge of economics and self-determination.

Noelani Arista is Assistant Professor of History and affiliate faculty in Indigenous Politics at UHM. Her fields of expertise include Hawai'i, the US and Pacific, and she works extensively in the 19th-century Hawaiian-language archive.

Mishuana Goeman is Associate Professor of Gender Studies and American Indian Studies at UCLA. She is a highly-regarded Indigenous studies scholar and is the author of *Mark My Words: Native Women Mapping Our Nations* (Minnesota, 2013).



SPONSORED BY INDIGENOUS POLITICS (UHIP), POLITICAL SCIENCE

Designing Hawaiian Governance: Nation-building and Constitution-making

Friday, January 15, 2016
Hālau o Haumea, UHM
5:30-7:30

Introduction: 'Ilima Long
Presentation: Dr. Richard Kaipo Lum
Respondent: Professor Williamson Chang
Closing: Andre Perez

We've watched the contentious nation-building process initiated through Act 195 deteriorate throughout the past four years. Most recently, the five member Na'i Aupuni committee granted over 150 self-selected participants the authority to draft organic documents for a Native Hawaiian Governing Entity (NHGE) while over 80% of Native Hawaiians are excluded from participation.

How does the current status of the NHGE-establishing process compare to other processes of nation-building around the world? Who and what can we look to in an effort to enter into a process of political formation and design that facilitates principled mass participation and input at the onset? What is today's norm for designing governance and how can we design the *process*?

Dr. Richard Kaipo Lum holds a PhD in Political Science from the University of Hawai'i at Mānoa, specializing in futures studies, political design and constitution-building and will present on processes of political design that are inclusive, innovative and that can help us effectively address our most pressing issues.

