It is hoped that things may change for the better with proposed new laws on immigration and land, as well as new elections in 2004. But a better future depends on educated parliamentarians, moral leadership, realistic government and private-sector goals and actions, and the tenacity of a friendly and hospitable Cook Islands people.

JON TIKIVANOTAU M JONASSEN

Reference


Hawaiian Issues

In light of pending litigation (Arakaki v Lingle) attempting to invalidate the Office of Hawaiian Affairs (OHA), the Department of Hawaiian Homelands (DHHL), as well as all other federal, state, and privately funded agencies that support Native Hawaiians, the Office of Hawaiian Affairs stepped up its campaign for federal recognition of Native Hawaiians as indigenous peoples of the United States. Federal recognition would solidify a political relationship with the United States government and put Hawaiians on par with other indigenous nations within US borders. Provoked by such legal challenges, the OHA campaign for federal recognition has gone mainstream, producing a slew of public informational meetings in communities around the state of Hawai‘i as well as high-profile televised forums.

Arakaki v Lingle was originally filed on 4 March 2002 by sixteen plaintiffs asking that the Office of Hawaiian Affairs (established by a 1978 constitutional convention) and the Department of Hawaiian Homelands (established in 1921 by the US federal government, setting aside approximately 200,000 acres of land for Hawaiian homesteading) be declared invalid and unconstitutional. The suit also asks that any and all monies and properties be immediately returned to the State of Hawai‘i to be used for all residents of the state, regardless of ancestry. In addition, the plaintiffs have asked that the creation of any similar laws in the future be prohibited. If successful, the suit would take away all current support systems and programs designed to redress historical wrongs perpetrated against Hawaiians, including the loss of Hawaiian sovereignty and the resultant, dismal socioeconomic conditions.

Arakaki v Lingle owes its standing to the 2000 Rice v Cayetano ruling, which forced the State of Hawai‘i to allow non-Hawaiians to vote in the election of trustees of the Office of Hawaiian Affairs. In anticipation of the ruling, Hawai‘i’s congressional delegation authored a bill for federal recognition of Native Hawaiians in 1999. They believed that the passage of such a bill would negate similar court cases and allow a certain degree of control for Hawaiians over lands and other assets currently administered by state and US federal agencies.

The latest incarnation of the federal-recognition bill, Senate Bill 344, was submitted to the 108th Congress in June 2003. While maintaining the general thrust of its predecessors, this version contains a new section that would establish a registration roll for Native Hawaiians, to be overseen and
approved by an Office for Native Hawaiian Relations within the US Department of Interior. Only registered voters would then be eligible to participate in the election of delegates and, subsequently, in the creation of organic documents for a future Native Hawaiian governing entity. Critics argue that this clause would amplify the US federal government’s power over the ability of a Native Hawaiian governing entity to determine the composition of its own citizenry.

The new clause is reminiscent of the ill-fated state legislation that established the Hawaiian Sovereignty Elections Council and mandated a plebiscite to determine the will of the Hawaiian people in 1996. That vote was problematic on two levels. First, the Hawaiian people (as well as non-Hawaiians) were uninformed regarding the issues and implications of what came to be known as the “Native Hawaiian Vote.” Second, because the Hawai’i State Legislature and the Office of Hawaiian Affairs jointly funded the vote, critics saw a clear conflict of interest between the sponsors and the electorate, and they accused the state of controlling the process. Although public awareness has continued to increase, it is clear that the same issues remain, and that the same conflict of interest may be replicated on the federal level.

Generally, the debate surrounding federal recognition has not changed. Supporters of the bill laud it as a shield for Native Hawaiian programs and trusts currently under attack, and see it as the only way Native Hawaiians can achieve autonomy. Detractors are unsatisfied with the domestic-dependent nation status the bill would create for Native Hawaiians. They argue that the bill is merely an attempt to protect the status quo and makes no provisions for independence; it may in fact block that option.

After her installation, Governor Linda Lingle made good on an election-year promise to campaign for federal recognition of Native Hawaiians (Reynolds 2003). In her 25 February 2003 testimony before the Senate Committee on Indian Affairs, Governor Lingle argued that the Native Hawaiian culture was “the foundation of the character of the state of Hawai’i, and the basis for common understanding among our varied ethnic populations. Our very identity as a state is founded on Native Hawaiian values, cultural practices and knowledge” (Lingle 2003).

Lingle’s avid support of federal recognition surprised many in the Hawaiian community. As mayor of Maui County, she had been criticized for allegedly supporting the sale of ceded lands (lands formerly belonging to the Kingdom of Hawai’i, taken after the overthrow and transferred to the US federal government, then to the State of Hawai’i, to be held in trust for the Hawaiian people). Although Hawaiians were not very optimistic when she won the election, her testimony illustrates a distinct shift in official attitudes toward Hawaiians. Governor Lingle, a Republican, is now seen as playing a crucial role in efforts influencing the Republican-led US Congress, as well as the Bush administration, to support federal recognition.

The Office of Hawaiian Affairs is not the only organization facing legal
The Kamehameha Schools, a private school established by the legacy of Princess Bernice Pauahi Bishop for Native Hawaiian children, is threatened on two fronts. It faces challenges to its admissions policy, which gives preference to children of Hawaiian ancestry. In addition, its capacity to generate revenue from leases on condominiums developed on trust lands may be compromised by state policies that favor mandatory lease-to-fee conversions.

In 2002, the trustees of the Kamehameha Schools admitted a non-Hawaiian student to its Maui campus. Hamilton McCubbin, chief executive officer of the schools at the time, stated that there were no other “qualified” Hawaiian students. Led by alumni and concerned parents, the Hawaiian community condemned the trustees’ actions. Some demanded an explanation, while others insisted that the trustees resign. As a result of the subsequent media storm, the trustees have since put their full weight behind the trust’s original admissions policy.

In 2003, a lawsuit was filed against the Kamehameha Schools on behalf of a non-Hawaiian mother who claimed Hawaiian ancestry for her son because her father was hānai (adopted) by a Hawaiian family. When she failed to verify the ancestry of her son, the admissions office withdrew their offer to admit him to the school. Her lawyer, John Goemans, who represented Harold Rice in the Rice v Cayetano suit, then filed a lawsuit denouncing the school’s admissions policy as racist, and filed for an injunction to prevent the school from cancelling her son’s enrollment, pending a court decision in the case. The Hawaiian community was once again infuriated, accusing Goemans of using a young child as a political pawn in his vendetta against Hawaiian rights, and condemning the mother for letting it happen. The case is still pending.

The Kamehameha Schools’ problems do not end there. The estate is one target of a mandatory lease-to-fee conversion policy in Hawai‘i. This policy results from a particular interpretation of the Land Reform Act, enacted almost forty years ago to break up the land holdings of large corporations that dominated Hawai‘i’s economy at the time. It was designed to allow families to buy their own lots and to increase market competition. It was not intended to apply to condominiums. In 1991, the state enacted a mandatory lease-to-fee conversion law that allows the state to condemn disputed lease land under condominiums, forcing the landowners to sell. Since then, the state has forced the sale of numerous sites. Three sites are currently under litigation: Kahala Beach Apartments; Admiral Thomas Condominiums; and the Camelot, also condominiums. The land under Kahala Beach Apartments is owned by the Kamehameha Schools, which utilizes the revenues to subsidize education for Hawaiian children. The Admiral Thomas Condominiums are owned by the United Methodist Church, which funds a preschool, a food bank, and community outreach programs. The Camelot provides revenue for an order of Roman Catholic nuns as well as a Hawaiian family. It is clear that the 1991 lease-to-fee conversion law is now benefiting real estate companies and a few wealthy condo owners at the expense of two churches, a
charitable trust, and a Hawaiian family.

A related land issue revolves around the island of Kaho'olawe, which lies just south of Maui. Immediately following the 1941 bombing of Pearl Harbor during World War II, Kaho'olawe was seized by the US military to be used for target practice. In 1976, the Protect Kaho'olawe 'Ohana began leading protests against the military's use of the island. They filed a federal civil suit, organized rallies, lobbied the legislature, and put their own lives on the line in site occupations that brought national attention to the Hawaiian nationalist movement. These efforts were finally rewarded in October 1990 when then President George H Bush directed the secretary of the navy to discontinue use of the island. Kaho'olawe formerly housed a navigational school, and coastal and interior settlements. Today it has been reduced to 28,800 acres of barely habitable, naked landscape, scarred by fifty years of neglect and environmental brutality.

By 1993, all bombing and military training ceased and the process for the return of the island to the State of Hawai'i began, based on the recommendations of the Kaho'olawe Island Conveyance Commission. Concurrently, the Hawai'i State Legislature established the Kaho'olawe Island Reserve Commission to oversee the newly formed Kaho'olawe Island Reserve. Despite its haggard appearance, Kaho'olawe still retains its status as a sacred island, serving as one of the main strongholds of the revitalization of Hawaiian cultural practices. The US military has not finished cleaning all unexploded ordinances on the island, and safety continues to be a concern. November 2003 marks the end of the $400 million federal contract to clean-up Kaho'olawe, which raises several issues concerning the continued clean up effort, liability, and future use of the island.

The establishment of a Native Hawaiian advisory council in the University of Hawai'i (UH) system, which consists of nine campuses around the islands, marked a return to education as a focal point in the Hawaiian movement. Named Pūko'a, the council is supported by a new, sympathetic administration at the University of Hawai'i. President Evan Dobelle set aside $1.5 million on his induction in fall 2001, and continues to encourage Hawaiian participation by creating a position to assist the chancellor of the UH Mānoa campus with Hawaiian issues. Among Pūko'a’s goals are increasing the number of Hawaiian students, faculty, and staff in the UH system, and fostering collaboration among UH campuses. The council also advocates parity with other programs for Native Hawaiian and Native Hawaiian-serving programs. Pūko’a’s general membership meets twice a year, and the executive council, consisting of two representatives from each campus, meets every other month. Each campus has its own council to discuss issues specific to their part of the UH system.

For Hawai'i's younger students, charter schools have become more prevalent and credible as alternatives to traditional public schools. The charter school movement began on the continental United States in 1991 to empower parents and communities
to work with educators, encourage innovation, experiment with curriculum, connect with the community, and allow for alternative ways of learning (Keesing 2000). Hawai‘i opened its first twenty-five New Century charter schools in 1999, utilizing project and culturally based approaches to education. The creation of these semi-autonomous schools has enabled teachers to create curriculum more suitable for Hawaiian students.

The more culturally appropriate approach has been especially effective for at-risk youth. One of the charter schools, Hālau Kū Mana, reported a 98 percent attendance rate in its first year. This is a notable achievement because many of its students came from the public school system with annual absentee rates ranging from 91 to 142 days. In the two years since it opened, Hālau Kū Mana has taken students to places including Japan, Tahiti, Washington DC, Arizona, Brazil, and Alaska. As part of the culturally based learning that is the cornerstone of Hawai‘i’s charter school system, the students also learn Hawaiian performing arts. In fact, Hālau Kū Mana earned the Statewide Excellence in Arts award for the 2001–2002 school year. Hālau Kū Mana is partly housed in the UH Mānoa Kamakakuokalani Center for Hawaiian Studies, enabling younger students to intermingle with college students, fostering confidence and encouraging students to continue to higher education (Keali‘i’olu’olu Gora, Hālau Kū Mana Director of Community and Public Relations, pers comm, 2003).

In addition to Pūko‘a and Hawai‘i’s New Century charter schools, new support organizations continue to be formed. The Council for Native Hawaiian Advancement, a member-based nonprofit organization that provides technical assistance, training, and information on community development, hosted its second annual conference in August 2003. The Native Hawaiian Graduate Student Council held its first conference with students from all fields. And the members of Hale Kū‘ai, a Hawaiian artisan cooperative, met to discuss marketing and the creation of a trademark indicating Hawaiian-made pieces.

These organizations, educational resources, and support programs have developed despite increased attacks on Hawaiian rights, lands, and assets. It is clear that as Hawaiians continue to empower themselves, anti-Hawaiian sentiment will build as well. Backed by some nonprofit Hawaiian organizations as well as by the governor, the Office of Hawaiian Affairs has increased efforts toward federal recognition, which would confirm a political relationship with the US government and provide some protection for Native Hawaiian programs.

The bill for federal recognition, S 344, is one alternative to help protect Native Hawaiian programs and organizations as well as offer some autonomy. Another option is to pursue decolonization through the United Nations and declare Hawai‘i an independent state. Although the latter option may be more risky in the short run, in the long run it has the potential to provide much more autonomy than federal recognition and to facilitate genuine independence. In either case, the goal is self-governance for Native Hawaiians. And, to this end,
Native Hawaiians must be ever vigilant and continue to assert themselves in the name of social justice.

TRACIE KU‘UIPO CUMMINGS

References


MĀORI ISSUES

The July 2002 general election delivered 20 members of Parliament who identify as Māori, out of a House of 120 members. Ten of them are in the Labour caucus of 52 that leads the coalition government. All 7 of the Māori seats went to Labour. Māori therefore expected to see at least 3 Māori cabinet ministers, with the same number or more becoming ministers outside cabinet. It was indicative of things to come that only 2 Māori cabinet ministers were appointed, along with another 2 outside cabinet. One of the ministers outside cabinet was Tariana Turia, who returned to the House with a very substantial 7,536 majority in the new Taihauauru seat. Turia has developed the reputation of being the only member in the House prepared to speak out fearlessly on behalf and in support of Māori, no matter how strident the media and opposition attacks on her become. Many Māori hoped she would be included in cabinet, as she had certainly earned such a posting. Her appointment as a minister outside cabinet sent a clear message that the Labour caucus is still uncomfortable with Māori who consistently support their own people.

However, Turia is no longer the only Māori member of Parliament able to articulate Māori aspirations accurately, clearly, and consistently. Metiria Turei, a first-time member in the Green Party, is showing considerable potential. Although the mainstream media ignores most of her press releases, her party does not appear to be censuring them. Georgina Te Heuheu of the conservative National Party, on the other hand, has increasingly found herself having to contradict her party leader. After the party failed miserably in the general election, the National leader abandoned any pretence of supporting Māori aspirations and set out to attack any policy or program aimed at improving Māori circumstances. He called for the abolition of the seven Māori seats in Parliament; demanded that the government legislate to vest the foreshores and seabed in the Crown, effectively confiscating those areas from Māori; he argued that Māori should be given no special consideration in any matter and that all New Zealanders are the same (thus willfully disregarding all socio-economic indicators that contradict this); he attacked the government for setting aside money in the budget for a Treaty of Waitangi education pro-