Hawaiian Issues

This year has been a milestone for Native Hawaiians. New voices are emerging in the community, and the debate is no longer whether there will be a Hawaiian nation; the struggle now is over what form it will take. Key events included protests against the construction of new telescopes on Mauna Kea and Haleakalā, several important new publications by Kanaka Maoli authors, and controversial efforts toward nation building and federal recognition.

On day 68 of the ongoing vigil to protect Mauna Kea, Ku‘uipo Freitas, a student in the master’s program at Ka Haka ‘Ula O Ke‘elikōlani (the College of Hawaiian Language) at the University of Hawai‘i–Hilo and one of the young leaders of the vigil, wrote: “There’s a difference between protesting (western perspective) and aloha ‘āina (Hawaiian perspective). We love our ‘āina [land], our language, our culture, our keiki [children] and we will do whatever it takes to protect our future” (Freitas 2015).

No’eau Peralto is a scholar engaged in kuleana-based research and activism in Hāmākua on the island of Hawai‘i, his kūlāwi (homeland). “We are the Mauna,” he proclaimed, “and our treatment of it reflects a deeply ingrained notion of the ways in which we now view and treat ourselves and each other. In neglecting our kuleana to mālama this ‘āina [our responsibility to care for this land], we ultimately neglect our kuleana to the future generations of our lāhui [our nation]” (Peralto 2014, 241).

Ku‘uipo and No’eau are but two of the next generation of Native Hawaiians raised in aloha ‘āina and well schooled in contemporary politics and traditional values. They arise out of a legacy of Native Hawaiian activism that was the Hawaiian cultural and political renaissance of the latter half of the twentieth century. These children and grandchildren of the first aloha ‘āina warriors are showing up at rallies for Hawaiian independence, making impassioned pleas to the trustees of the Office of Hawaiian Affairs (OHA) to stand with them in the struggle to regain control of Hawaiian lands, and, under the watchful eye of their kūpuna (elders), these young people are leading the movement to prevent construction of a thirty-meter telescope on Mauna Kea as well as the Daniel K Inouye Solar Telescope on Haleakalā. This review focuses on the resistance on Mauna Kea, but it must be noted that similar arguments are being made on both mountains concerning state stewardship of resources. (For more on the Haleakalā telescope project, see Associated Press 2015; Cocke 2013).

Much of the work of Native Hawaiian activism over the past sixty-five years is documented in A Nation Rising: Hawaiian Movements for Life, Land, and Sovereignty (Goodyear-Ka‘ōpua, Hussey, and Wright 2014). This book is one of a number of groundbreaking works
by Native Hawaiian scholars published in 2014, including volumes by Kamanamaikalani Beamer, Katrina-Ann Kapā Oliveira, Aiko Yamashiro and Noelańi Goodyear-Ka‘ōpua, and Iokepa Casumbal-Salazar. Collectively these works contribute to the growing body of scholarly works grounded in Native Hawaiian knowledge systems and beliefs.

Through essays and photographs, *A Nation Rising* paints a vibrant and dynamic picture of the emergence and growth of the Hawaiian independence movement. One of the major themes in the book is Native Hawaiian political activism to regain control of the Hawaiian Kingdom Crown and Government Lands, also known as the ceded lands. The contested sacred site, Mauna Kea, is included in this inventory of lands.

Another Native Hawaiian issue that has heated up this year is the realpolitik of building a Hawaiian nation. The US Department of the Interior (DOI) and the State of Hawai‘i, including the legislature, the governor’s office, and the semi-autonomous state agency ʻOHA, have attempted to address the mechanics of nation building. ʻOHA, in conjunction with the state, stepped up efforts to create a roll of Native Hawaiians and to organize a structure for Native Hawaiian governance. Meanwhile, the DOI took initial steps toward federal recognition for Native Hawaiians through executive order. Hawaiian independence advocates are contesting both these efforts, arguing that neither addresses a critical element of self-determination: control of one’s own lands and resources—for Native Hawaiians, that would be the Hawaiian Kingdom Crown and Government Lands.

Many years ago, traditional navigator and former University of Hawai‘i Regent Nainoa Thompson made the connection between Mauna Kea and this larger issue of land and sovereignty: “Mauna Kea is the center of our spirituality. For it to be the place we debate this issue is not by chance,” he said in a *Los Angeles Times* article (McFarling 2001).

The movement to protect Mauna Kea is arguably the Hawaiian issue that has garnered the most attention locally, nationally, and internationally in the past year. Although the dispute has reached a critical juncture this year, the presence of telescopes on the mauna has been contested for decades. The 2005 video *Mauna Kea: Temple Under Siege* documents early efforts to rein in development on the mountain (Lander and Puhipau 2005). In this film, defenders of Mauna Kea, including a wide range of Native Hawaiians and allies, speak out against the desecration and environmental degradation of the mountain, making cogent arguments about religious freedom and the responsibility to protect a fragile ecosystem. In the end, though, these voices were powerless against the economic and scientific interests that control land use on the mountain. The video ends with these words: “In 2004, for the first time in thirty-five years, NASA completed a study on cumulative impacts of astronomy development on Mauna Kea and found that the impact was significant and adverse. NASA and the University of Hawai‘i continue with plans for more astronomy development” (Lander and Puhipau 2006; see

In following years, the defenders of the mountain did thwart the expansion of one telescope array on the mauna. In 2007, a group of petitioners successfully sued to overturn a Board of Land and Natural Resources (BLNR) permit for additional telescopes at the W M Keck Observatory. The judge’s ruling stated that the project did not have an adequate management plan in place. In 2011, this same group of petitioners entered into a contested case proceeding to challenge a Conservation District Use Permit granted to the University of Hawai‘i–Hilo to build a thirty-meter telescope on Mauna Kea (Hawaii Independent Staff 2011; Casumbal-Salazar 2014, xxxi). The plaintiffs have taken this contested case to the Hawai‘i Supreme Court, and oral arguments are scheduled for 27 August 2015.

TMT Observatory Corporation (TMT), an international consortium based in Pasadena, California, proposes to build and operate the thirty-meter telescope within the Mauna Kea Science Reserve. Advocates in the scientific community argue that this telescope is “an essential tool to address questions in astronomy ranging from understanding star and planet formation to unraveling the history of galaxies and the development of large-scale structure in the universe” (Thirty Meter Telescope website 2015). Local supporters of the project argue that astronomy brings needed economic stimulus to West Hawai‘i Island (Ramones 2014). For Native Hawaiians, Mauna Kea is a wahi pana (storied place) and a sacred place. They argue that the astronomy community is not fulfilling its kuleana to protect sacred sites and fragile habitats (Casumbal-Salazar 2014; Lander and Puhipau 2005).

In 2014, contention between opponents and supporters of TMT heated up when TMT scheduled a groundbreaking ceremony for the site despite ongoing litigation (Caron 2014). Native Hawaiians disrupted the ceremony, putting TMT, the University of Hawai‘i, and the BLNR on notice that they would not allow the telescope project to move forward. In April and June 2015, operating under a strict discipline of kapu aloha (respectful, ritual restraint), demonstrators put their bodies in front of construction equipment on the mountain.

Political debate on the development on Mauna Kea is closely tied to the question of control of lands and the shared sense that a grave injustice was perpetrated on the Hawaiian people in the aftermath of the 1893 coup that deposed Queen Lili‘uokalani. Many agree with former Governor John Waihe‘e’s observation: “I know very few Native Hawaiians who aren’t moved by the fact that the United States illegally took over Hawaii” (Bussewitz 2015). This fact of history, as Waihe‘e referred to the illegal taking of Hawai‘i, has generated many possible ways to move forward as a Hawaiian nation.

Hawai‘i’s congressional delegation, led by US Senator Daniel Akaka, attempted to resolve the issue by means of federal legislation to recognize a Native Hawaiian governing entity. The Native Hawaiian Government Reorganization Act, also known as the Akaka Bill, would create a nation-to-nation relationship between
the United States and the Native Hawaiian governing entity similar to that of Native American governing entities (Kauanui 2014, 313). Proponents of the legislation argued that it would protect Native Hawaiian entitlement programs and foreclose the possibility of future lawsuits claiming that these programs are race-based and therefore illegal. When it became clear that the US Congress would not enact the Akaka Bill, the State of Hawai‘i and the administration of US President Barack Obama embarked on different paths for recognition of Hawaiians as Native peoples within the United States. J Kēhaulani Kauanui has pointed out the limitations of either a state or a federal process for creating a Native Hawaiian governing entity. First, these processes would “undercut the restoration of the Hawaiian nation under international law” (Kauanui 2014, 312). The Native Hawaiian governing entity created under either of these frameworks, Kauanui also argued, would represent “a collective acquiescence [by Native Hawaiians] to the US government or its subsidiaries” (2014, 314).

The advantages and drawbacks of federal recognition (also referred to as a nation-within-a-nation, domestic dependency, or a tribal model) have been debated in the Native Hawaiian independence movement since its early days (Ka‘iama 2014; Kauanui 2014; Bussewitz 2015). The summer of 2014, though, opened up the debate on these important issues of land and self-determination to a broader Native Hawaiian public. At the request of Hawai‘i’s congressional delegation as well as state politicians and leaders in the Hawaiian community, the DOI held a series of meetings across the state and in Indian Country (Native American communities throughout the continental United States) for the expressed purpose to “solicit comments that could help determine whether the Department develops a formal, administrative procedure for reestablishing an official government-to-government relationship with the Native Hawaiian community and if so, what that procedure should be.” According to the DOI, the purpose of such a relationship would be “to more effectively implement the special political and trust relationship” that currently exists between the federal government and the Native Hawaiian community (DOI 2014a).

To the surprise of both establishment and radical Hawaiian political leaders, thousands of Native Hawaiians attended the hearings. Entire families testified, sharing cross-generational stories of loss and of hope. The hearings were, it seemed, an opportunity for the Hawaiian nation to speak to itself. Digital technology allowed the hearings to be streamed over the Internet via public-access community media organizations. Social networks lit up with conversations about what federal recognition or independence would mean for Hawaiians. The preponderance of oral testimony opposed federal recognition. The DOI stated at the hearings that it will not pursue the rule-making process if the majority of both oral and written comments are opposed to the process. Transcripts of the hearings are available at the DOI website (DOI 2014b).

In August 2015, the DOI press secretary had confirmed “that in response to an extensive public com-
ment period with public meetings, as you are aware, in Hawaii and also Indian country in the continental United States and requests from congressional states and Native Hawaiian community leaders, the Department of Interior will propose a rule that establishes an administrative procedure that the secretary would use if the Native Hawaiian community forms a unified government that seeks a formal government-to-government relationship with the United States” (Blair 2015).

On 29 September 2015, the DOI made public its proposed rules that would govern a relationship between the federal government and a Native Hawaiian governing entity (Hawaii News Now 2015). Events surrounding nation building and federal recognition are continually unfolding and will most certainly be reported in next year’s update.

The chairman of the Native Hawaiian Roll Commission, former Governor Waihe‘e, was reported as saying that “the effort [of the Department of the Interior] syncs nicely with the nation-building process overseen by the Native Hawaiian Roll Commission” (Perez 2014). In 2011, the Hawai‘i State Legislature created Act 195, the Native Hawaiian Roll Commission, the purpose of which is “to provide for and to implement the recognition of the Native Hawaiian people by means and methods that will facilitate their self-governance, including the establishment of, or the amendment to, programs, entities, and other matters pursuant to law that relate, or affect ownership, possession, or use of lands by the Native Hawaiian people, and by further promoting their culture, heritage, entitlements, health, education, and welfare” (Hawaii Revised Statutes 2011). In her essay in A Nation Rising, Kauanui provided a cogent summary of the rationales that led up to this legislation. She pointed out the inherent limitations of the state and federal structures for nation building and documented the arguments against the process of recognition outlined in Act 195. She recounted the day when the legislation was signed into law: “In many ways, that historical moment marked the depressed culmination of a decade of resistance to the Akaka Bill and state co-optation of the Hawaiian sovereignty struggle” (Kauanui 2014, 313). These efforts to fold Native Hawaiian sovereignty into the state and federal governments have galvanized Native Hawaiians around Hawaiian nationhood. What form that nationhood will take has yet to be determined.

OHA has taken the lead in organizing the process by which Native Hawaiians on the Native Hawaiian Roll will establish a Native Hawaiian governing unit. In March 2014, OHA announced that it would facilitate the nation-building process but refrain from advocating a specific model. Trustee Haunani Apoliona, chair of an ad hoc governance committee, said, “We will remain neutral and ensure that the people can provide meaningful input on the process and that the outcomes reflect the will of the Native Hawaiian people. Simply put, our commitment is to provide support by letting Native Hawaiians determine the desired outcome” (Essoyan 2014). OHA has contracted with Na‘i Aupuni to move forward with efforts to convene a constitutional convention
that would create a Native Hawaiian governing entity. According to its website, Na‘i Aupuni is an independent organization made up of a volunteer board of directors from the Hawaiian community. The organization “exists solely to help establish a path for Hawaiian self-determination.” Na‘i Aupuni will facilitate three stages of nation building: electing delegates to a constitutional convention, building a constitution at the convention of delegates, and ratifying the constitution (Na‘i Aupuni website 2015). This process is not without controversy. Native Hawaiians are asking whether the constitutional convention will adequately address these fundamental questions circulating in the Native Hawaiian community: Is Hawai‘i a legally constituted state of the United States or an occupied independent nation? (Sai 2011) and How do we protect Native Hawaiian entitlement programs at the state and federal level? (Apo 2014). These issues are too complex to be addressed in the abbreviated process outlined by Na‘i Aupuni. As Goodyear-Ka‘ōpua pointed out, “the scope and complexity of the issues require ‘Ōiwi [Native Hawaiians] and settlers to continuously and constructively engage in conversations and decision-making processes because the problems cannot be solved or swept under the rug even if full sovereignty, pseudo–sovereign government reorganization, or some other state-initiated settlement is achieved. Like breathing, the work of ea [sovereignty] will continue on and on” (Goodyear-Kaʻōpua 2014, 30).

Nevertheless, Na‘i Aupuni continues on its timeline for an election, convention, and ratification process. This timeline calls for convening an ‘aha (meeting or assembly) on O‘ahu between February and April 2016. The ‘aha is, according to the Na‘i Aupuni website, “a gathering of elected delegates who will come together to decide whether or not to create a document or constitution for a nation and its governance. Any document, constitution or structure developed at the ‘Aha may be voted upon in a referendum by registered Hawaiian voters.” The work of forty delegates will be completed over the course of eight consecutive weeks (forty work days, Monday through Friday). If delegates recommend a form of Hawaiian government, a ratification vote will be held among all certified Native Hawaiian voters two months after the ‘aha concludes (Na‘i Aupuni website 2015).

This is a time of great turmoil and great promise for Native Hawaiians. A process for establishing a Native Hawaiian governing entity is moving forward. The protectors of Mauna Kea continue their vigil on the mountain, and the situation remains unresolved. The struggle over control of this sacred site, though, has strengthened the commitment of Native Hawaiian nationals to work toward Native Hawaiian control not only of Mauna Kea but also of all the Hawaiian Crown and Government Lands.

MARY TUTI BAKER

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Māori Issues

We lost a number of well-known Māori leaders in the past year. Henare Rakiihia (Rik) Tau, a Ngāi Tahu leader, passed away at the end of June 2014. He filed the Ngāi Tahu claim against the Crown in 1986 and was the driving power behind the success-