

INTERVENTION OF NA KOA IKAİKA O KA LAHUI HAWAI'I

WGIP - July/August 1999

Madam Chair,

Thank you for allowing Na Koa Ikaika O Ka Lahui Hawai'i to present this intervention on the Indigenous peoples of Hawai'i and their relationship to land.

Our ancestors have a saying: *hanau ka 'aina, hanau ke ali'i, hanau ke kanaka*. This not only describes the relationship we share with the land, but it also tells us that we belong on the land and the land and the people belong together.

Land in Hawai'i was traditionally used by the Native people for subsistence. As with many indigenous societies, Native Hawaiians shared in a reciprocal and familial relationship with the land they tended. The land was a gift from the creator and if cared for and properly tended to, it provided what was needed for life to prosper. In any given *ahupua'a* (a traditional land division) the people had access to all the resources they needed, from the mountains to the sea.

In 1810 the Hawaiian Islands were united under one *mo'i* (monarch), Kamehameha I, marking the beginning of the Hawaiian Kingdom. As the presence of foreigners grew in Hawaiian territory King Kamehameha III, after being pressured by non-native advisors, initiated the Mahele or Land Division of 1848. The Mahele transformed the traditional land system into a Western system of private ownership by dividing the land into three major portions. The King stipulated, however, that these three divisions were forever subject to the rights of the Native tenant.

- One million acres of land were claimed by the King himself and called *Crown Lands*. These lands were set aside for the use and benefit of the throne.
- Approximately 500,000 acres were claimed as *Konohiki Lands* by the chiefs and their families.
- The King then declared 1.5 million acres of land for the Kingdom to be used for the promotion and prosperity of the Hawaiian Kingdom. These lands have become known as *Government Lands*.

In 1850, the Kuleana Act enabled Native tenants to be awarded fee simple titles to a portion of the land they tended. While the Mahele was the end of traditional land tenure in Hawai'i, it would eventually serve as the foundation of modern Hawaiian land trusts.

After the illegal overthrow of the Hawaiian Government in 1893 by foreign conspirators, Crown and Government Lands were seized by the Provisional Government. In 1895, these lands were transferred to the Republic of Hawai'i, a

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government formed by the same foreign faction that overthrew the Hawaiian Kingdom.

To preserve sugar interest in Hawai'i, the Republic of Hawai'i negotiated a Treaty of Annexation to the United States, which was ratified only by a Joint Resolution (Res.5. Newland) of the U.S. House and Senate in 1898. The U.S. Congress in 1900 passed the Hawai'i Organic Act which ceded approximately 2.5 million acres of stolen Crown and Government Lands held by the Republic of Hawai'i to the Government of the Territory of Hawai'i. These lands became known as Public Lands and were to be used for the benefit of the inhabitants of Hawai'i, and for U.S. civil, military and naval purposes.

The Hawaiian Homes Commission Act, passed by the U.S. congress in 1920, was the first land trust to be established for the native Hawaiian people. "In order to rehabilitate landless and dying people," the Hawaiian Homes Commission Act set aside 200,000 acres of the most arid Public Lands to be used for homesteading by native Hawaiians. The Act also defined "native Hawaiian" as "any descendant of not less than one-half part of the blood of races inhabiting the Hawaiian islands previous to 1778." Today the waiting list for an award of Hawaiian Homelands exceeds 15,000 people.

The Admissions Act of 1959 ceded 200,00 acres of Hawaiian Homelands and 1.4 million acres of Public Lands to the State of Hawai'i with a mandate in section 5(f) that "these lands be held by said State as a public land trust for the support of the public schools and other public educational needs," and for the "betterment of the conditions of native Hawaiians." Comprised of former Crown and Government Lands, this Act established the Ceded Lands Trust, the second modern land trust for native Hawaiians. The State has failed to compile a complete and accurate inventory of Ceded and Public Lands and has also failed to fulfill its trust obligation to the native Hawaiian people. Although native Hawaiians are recognized as beneficiaries of this trust, they are classified as wards of the State and are not allowed to sue the State for any breach of trust for this or any other trust held by the State of Hawai'i.

Land in Hawai'i is, by today's economic standards, an extremely valuable commodity. The eight major Hawaiian islands have a land area of only 6,427 square miles (4,108,596 acres). Seventy-four major land owners control 95% of Hawai'i's land. As a result of the illegal overthrow of the Hawaiian Kingdom and the confiscation of its Crown and Government Lands, the State and Federal Governments are now the largest land owners, controlling 53% of Hawai'i's land.

The limited availability and high value of land often results in profit considerations over the cultural value of certain places to the Native Hawaiian people. Sacred sites are destroyed and access denied despite protest, demonstration, and political lobbying done by Native Hawaiians in addition to King Kamehameha's stipulation in the Mahele that all lands are subject to the rights of the Native tenant. The famous tourist destination of Ka'anapali beach on the island of Maui is the home of Keka'a, now called Black Rock. As the western-most point on the island, Keka'a is a very spiritual area where it is believed the spirit must go to leap to a good place, a dark place, or to find that one is destined to roam this world. Today, the *heiau* (temple) that once stood

there has been plowed under, the burials have been taken away, and Native Hawaiian people are denied access by the owners of a luxury resort that has been built there.

Public Law 103-150, also called the Apology Bill, passed by the U.S. Congress in 1993 recognized that,

- “The Republic of Hawai‘i also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawai‘i, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government,”
- “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,”
- “The health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land.”

Since the rise of the sugar industry in the mid 1800s to the peak of the tourist industry today, stolen Crown, Government, and Kuleana lands have been and continue to be illegally sold to non-Native investors. We belong on the land and we want our lands returned.