

'A'ole Is Our Refusal

'A'OLE

No, not, never; to be none, to have none.

'A'ole loa! Certainly not! Not at all! I should say not! Never!—*Mary Kawena Pukui and Samuel H. Elbert*

In the summer of 2014 the U.S. Department of the Interior (DOI) held public meetings throughout Hawai'i and on the North American continent in Indian Country to garner feedback on reestablishing a government-to-government relationship between Kanaka Maoli and the United States. The meetings, mandated by the Advance Notice for Proposed Rulemaking (ANPRM), solicited input on whether and how an administrative rule should be implemented to provide a procedure, or legal pathway, for U.S. federal recognition of a reorganized Kanaka 'Ōiwi governing entity. It was a busy summer for the DOI, but also for Kānaka Maoli, who, with incredibly short notice, came out in full force to attend the public meetings and refuse what the DOI was selling.

When the DOI arrived in Hawai'i, Kānaka Maoli unapologetically rejected the offer of federal recognition. During the first public meeting on June 23 held in Honolulu, O'ahu, Juanita Kawamoto testified to representatives from the DOI, "I'd just like to say **no thank you**. Also, I'd like to be clear, all the things that you're doing here today are completely inappropriate, and I'm speaking in clear English so that all of you can understand, this is very inappropriate, to the point of [being] absolutely disrespectful to our people here." The refusals called out the DOI's push to federally recognize a new

Native Hawaiian governing entity as well as the executive department's presence in Hawai'i, tying this historical moment to an earlier moment of protest. "Oh, honest Americans," Lākea Trask exclaimed at the July 2 meeting in Keaukaha, Hawai'i, "I stand before you today empowered by the nearly 40,000 who signed the Kū'ē Petitions and said no to annexation, the hundreds who testified already on their behalf. I stand here, humbled, ha'aha'a, that you folks have come all this way to meet us face-to-face, alo i alo. And I stand before you, angered and outraged at your motives for being here, for trying once again to steal our identity." Kānaka Maoli opposed and challenged the proposal by drawing upon a historical tradition of resistance not simply to U.S. annexation but to American imperialism, empire, and settler colonialism in Hawai'i. As Trask's testimony illustrates, the invocation of the Kū'ē Petitions represents one example, among many others, in a mo'okū'auhau (genealogy) of 'Ōiwi refusals to U.S. control of our nation.

The Kū'ē Petitions, also known as the Palapala Hoopii Kue Hoohuiaina (petition protesting annexation), were signed by more than 38,000 Kānaka Maoli in protest against U.S. annexation of Hawai'i. Delivered to the Senate in 1897, the petitions persuaded senators to vote down a treaty of annexation and ultimately demonstrate that Kānaka Maoli have actively resisted U.S. colonialism. In her book *Aloha Betrayed*, which uncovers the petitions, Noeneo Silva discusses another document, the Palapala Hoopii (memorial), that was sent to President William L. McKinley and Congress in the same year. It was a memorial that "served as a moral challenge to the United States" to "live up to their own democratic principles and body of law."¹ A line from the Palapala Hoopii states, "The project of Annexation . . . would be subversive of the personal and political rights . . . of the Hawaiian people and Nation."² Silva writes that the Palapala Hoopii was crafted by Kānaka 'Ōiwi from the Komite o ka Lehulehu (Citizens' Committee).

One member of the committee and endorser of the memorial was C. B. Maile, my kupunakāne kualua (great-great-grandfather). I'll never forget the moment when I saw his name in the text *Aloha Betrayed*. I felt as if I was shaken from a hazy slumber. A feeling of immense pride came over me. Later, I would find out from my 'ohana that C. B. Maile also signed the Kū'ē Petitions. This discovery forced me to confront and accept my genealogical kuleana (responsibility). These moments were indeed liberating—they changed what I desired and how I lived—not just by recuperating the mo'olelo (stories and histories) and working to understand my mo'okū'auhau in relation to them, but because it compelled me to act, to do as my great-great-grandfather had done, and to be steadfast in protecting our lāhui, our people, our nation.

During the summer of 2014, I was pursuing my doctoral studies in Albuquerque, New Mexico, within the territory of the Pueblo of Sandia, and I was unfortunately unable to attend the DOI's public meetings in Hawai'i. After fifteen meetings in Hawai'i, the representatives of the DOI, accompanied by representatives from the Department of Justice and the Office of Hawaiian Affairs, traveled to Indian Country to solicit input on the ANPRM. I drove approximately seven hours from Albuquerque to Scottsdale, Arizona, to testify. I shook with nerves. But I wanted to make my kupunakāne kualua and 'ohana proud. I wanted to stand up for the lāhui. I wanted to communicate our unyielding refusal to be regulated, to be subordinated, and to be marginalized. On the territory of the Salt River Pima-Maricopa Indian Community, I felt C. B. Maile with me, guiding my voice, as I testified against U.S. federal recognition by saying, "With mahalo for the people Indigenous to these lands, and with great emphasis, I must say 'A'OLE to the Department of Interior." It is our collective story of Kanaka Maoli refusals that I humbly tell here.

From the DOI's perspective, extending federal recognition to Kanaka Maoli makes sense for several reasons. First, congressional statutes recognize an existing relationship with Native Hawaiians. This relationship, however, is not formally recognized as a government-to-government relationship. Second, the statutes created programs and services for Kānaka Maoli, such as the Hawaiian Homes Commission, which have produced more problems than they have solved despite the ANPRM claiming that "Congress has consistently enacted programs and services expressly and specifically for the Native Hawaiian community that are, in many respects, analogous to, but separate from, the programs and services that Congress has enacted for federally recognized tribes in the continental United States."³ Third, federal recognition of Native American tribes implies a government-to-government relationship, allegedly bestowing sovereignty, granting self-determination, and providing benefits, but "the benefits of the government-to-government relationship have long been denied to one place in our Nation, even though it is home to one of the world's largest indigenous communities: Hawaii."⁴ This rationale forged a rhetoric through which the DOI markets, sneakily indeed, the so-called gifts of federal recognition.

To me, the DOI's attempt to federally recognize a reorganized Native Hawaiian governing entity is an attempt to settle legal claims against the U.S. and settle Hawai'i once and for all. This is another hollow gesture, the latest scheme to dispossess and displace Kānaka Maoli. For instance, the DOI admits that the U.S. perpetrated the overthrow of the Hawaiian Kingdom. Yet, its admission has been warped and manipulated to provide evidence

that “there has been no formal, organized Native Hawaiian government since 1893,” when Queen Lili‘uokalani’s government was illegally overthrown, and to suggest that reestablishing a government-to-government relationship is reconciliation.⁵ One of the statutes deployed for this legal ruse is Public Law 103-150, the 1993 Apology Resolution, which confesses and acknowledges that ‘Ōiwi sovereignty was never surrendered. The Apology Resolution contends 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.”⁶ However, it absolves the U.S. from any culpability. J. Kēhaulani Kauanui argues that the Resolution is a no-fault apology: “It is clear that this particular apology is nothing but an empty gesture that served a limited political goal to recognize the one hundredth anniversary of the U.S.-backed unlawful overthrow of the Hawaiian Kingdom.”⁷ The ANPRM confirmed this empty gesture by asserting that federal recognition would not actually transform the existing relationship between the U.S. and the Native Hawaiian community in a way that would meaningfully address past wrongs. The apologetic state, it seems, wants to cure, *vis-à-vis* reconciliation, the harms it perpetrated. Testimony from the DOI meetings suggested, however, that Kānaka Maoli clearly see this legal trick as an attempt to coerce us into submitting to Congress’s plenary power and acquiescing to U.S. settler sovereignty. Commenting on the settlement process enacted through federal recognition, Julian Aguon refers to this as “the red carpet the assassin lays out before the murder takes place.”⁸

Therefore, when the DOI hosted public meetings to solicit feedback regarding whether and how the U.S. should federally recognize a reorganized Native Hawaiian government, Kānaka Maoli unequivocally responded: ‘**a’ole**. According to Protest Na’i Aupuni, an organization formed on the ‘āina in response to federal and state initiatives for recognition, approximately 90 to 95 percent of Kānaka Maoli who testified opposed the proposed rulemaking. At the meeting in Waimānalo, O’ahu, on June 23, Shane Pale succinctly addressed each threshold question by opining, “The short answer, again **no, no, no, no and no.**”

Despite explicit opposition, the DOI dismissed our testimonies and issued the Notice for Proposed Rulemaking (NPRM), which shored up the rhetoric from the ANPRM. The NPRM mandated that “nothing in this proposed rule would alter the sovereign immunity of the United States or the sovereign immunity of the state of Hawaii.”⁹ It further suggested that “reestablishment of the formal government-to-government relationship will not affect title,

jurisdiction, or status of Federal lands and property in Hawaii. This provision does not affect lands owned by the state of Hawaii or provisions of State law.”¹⁰ What this means is that federal recognition would undeniably strengthen U.S. sovereignty to exercise territorial rule over Hawai‘i. But, “to accept these conditions,” according to Audra Simpson, “is an impossible project for some Indigenous people, not because it is impossible to achieve, but because it is politically untenable and thus normatively should be refused.”¹¹

Despite gross attempts to settle legal claims against the U.S. and settle Hawai‘i overall, I believe it is crucial to map out how Kānaka Maoli refused the gifts of federal recognition with ‘a‘ole. At the meeting in Kahului, Maui, on July 8, Tisha-Marie Beattie responded to the threshold questions by saying, “Your answer from me is **no**. You cannot give me back something I never gave up . . . take your thing you wanna give us, throw ‘em in the trash. **We don’t want it. We sovereign.**” During the same meeting, Kaleikoa Ka‘eo proclaimed:

No consent, never.

No, Department of the Interior.

No treaty, never.

No, Department of the Interior.

No cession of our citizenship.

No, Department of the Interior.

No justice for our people for 120 years.

No to the Department of the Interior.

No lawful authority to sit upon our people and step upon our necks.

No to the Department of the Interior.

In Kapa‘a, Kaua‘i, on July 1, James Alalan Durest testified, “For you guys’ answers for the questions, **hell no.**” The refusal was resounding, and much more than just an answer of no. It was an answer of ‘a‘ole rooted to and articulating our historical tradition of resistance. At the same meeting in Kapa‘a, Puanani Rogers posited, “I protest and oppose the advance notice [for] proposed rulemaking . . . and say **‘a‘ole**, which means **no** in English.” Likewise, Mitchell Alapa noted, “All I got to say to you folks is ‘a‘ole. **All these things is ‘a‘ole.**” At Waimea, Hawai‘i, Gale Ku‘ulei Baker Miyamura Perez said, “I’m here to say **‘a‘ole, or no, to all of your questions.**” The ‘a‘ole also suggested that the DOI must leave, or, as Heali‘i Kauhane phrased it in Keaukaha, “**go away.**” In Kaunakakai, Moloka‘i, on June 28, Lawrence Aki demanded, “**You need to go home.**” At that same meeting, Walter Ritte concluded, “These hearings represent an honest reaction from the Hawaiian community. The majority is in no mood to continue our subservient relationship with the United States.”

'A'ole, as a Kanaka Maoli enunciation of refusal, is a practice and politics for decolonization. In other words, 'a'ole is an 'Ōiwi refusal that offers a way to actualize decolonization. For Kānaka Maoli rejecting the unwanted offer of federal recognition, 'a'ole is our refusal to the ongoing colonization of Hawai'i. Settler colonialism is a system of power that seeks to dispossess, eliminate, and replace our lāhui, but it fails with every 'a'ole uttered. It fails with each 'a'ole performed in protest, protection, or blockade. Our 'a'ole exposes the failure of settler colonization. This is how 'a'ole maintains a decolonizing function. 'A'ole refuses the settlement of our 'āina. It refuses to forget our mo'olelo and mo'okū'auhau. It refuses legal subordination and asserts our own sovereign independence—our ea—within and beyond law. Like not giving an oli komo (welcome chant) when asked for permission to enter through an oli kāhea (entrance chant), we deny consent. Our swelling and firm 'a'ole to federal recognition is consent's revenge.¹² 'A'ole to DOI federal recognition of our lāhui. 'A'ole to that and much more. We must continue to assert 'a'ole, honoring the histories and stories of past refusals, in order to refuse, both in the present and future, state-determination in place for genuine *self*-determination.

It is time those being told **'A'OLE** actually listen.

Notes

Epigraph: Mary Kawena Pukui and Samuel H. Elbert, *Hawaiian Dictionary: Hawaiian-English, English-Hawaiian* (Honolulu: University of Hawai'i Press, 1986), 27.

- 1 Noenoe K. Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Durham, NC: Duke University Press, 2004), 154.
- 2 Silva, *Aloha Betrayed*, 153.
- 3 Office of the Secretary, Department of the Interior, Advanced Notice for Proposed Rulemaking, "Procedures for Reestablishing a Government-to-Government Relationship with the Native Hawaiian Community, 1090-AB05," *Federal Register* 79, no. 119 (June 20, 2014): 35299, <https://www.gpo.gov/fdsys/pkg/FR-2014-06-20/pdf/2014-14430.pdf>.
- 4 Office of the Secretary, Department of the Interior, "Procedures for Reestablishing," 35298.
- 5 Office of the Secretary, Department of the Interior, "Procedures for Reestablishing," 35298.
- 6 Joint Resolution to Acknowledge the 100th Anniversary of the January 17, 1893, Overthrow of the Kingdom of Hawaii and to Offer Apology to Native Hawaiians on Behalf of the United States for the Overthrow of the Kingdom of Hawaii, Pub. L. No. 103-150, 107 Stat. 1510 (1993), 1513.

- 7 J. Kēhaulani Kauanui, "A Sorry State: Apology Politics and Legal Fictions in the Court of the Conqueror," in *Formations of United States Colonialism*, ed. Alyosha Goldstein (Durham, NC: Duke University Press, 2014), 113.
- 8 Julian Aguon, "The Commerce of Recognition (Buy One Ethos, Get One Free): Toward Curing the Harm of the United States' International Wrongful Acts in the Hawaiian Islands," *Ohia: A Periodic Publication of Ka Huli Ao Center for Excellence in Native Hawaiian Law* 1, no. 1 (2012): 64.
- 9 Office of the Secretary, Department of the Interior, Notice for Proposed Rulemaking, "Procedures for Reestablishing a Government-to-Government Relationship with the Native Hawaiian Community, 1090-AB05," *Federal Register* 80, no. 190 (October 1, 2015): 59126.
- 10 Office of the Secretary, Department of the Interior, "Procedures for Reestablishing a Government-to-Government Relationship with the Native Hawaiian Community," 59126.
- 11 Audra Simpson, *Mohawk Interruptus: Political Life across the Borders of Settler States* (Durham, NC: Duke University Press, 2014), 22.
- 12 Audra Simpson, "Consent's Revenge," *Cultural Anthropology* 31, no. 3 (2016): 326–33.

Resources

- "'AHA ALOHA 'ĀINA." *'Aha Aloha 'Āina* blog. Accessed July 26, 2018.
<http://www.ahaalohaaina.com>.
- Goodyear-Ka'ōpua, Noelani. "'Now we know': Resurgences of Hawaiian Independence." *Politics, Groups, and Identities* 6, no. 3 (2018): 453–65. <https://doi.org/10.1080/21565503.2018.1472021>.
- Goodyear-Ka'ōpua, Noelani, and Bryan Kamaoli Kuwada. "Making 'Aha: Independent Hawaiian Futures." *Dædalus, the Journal of the American Academy of Arts and Sciences* 147, no. 2 (2018): 49–59.
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<http://www.protestnaiaupuni.wordpress.com>.
- Teves, Lani, and Maile Arvin. "Recognizing the Aloha in 'No.'" *Hawaii Independent*, July 7, 2014. <http://www.hawaiiindependent.net/story/recognizing-the-aloha-in-no>.