Moloka‘i:
Resurrecting ‘Aha Moku on the “Last Hawaiian Island”

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I. INTRODUCTION

“Moloka‘i, ‘Āina Momona” (Moloka‘i, Land of Plenty)1 refers to Moloka‘i as the land of “fat fish and kukui nut relish.”2 Hawai‘i’s State motto, “Ua mau ke ea o ka ‘āina i ka pono,”3 translated as “the life of the land is perpetuated through righteousness,”4 suggests a statewide ideal to protect our natural resources.5 Numerous activities,6 however, run

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1 Moloka‘i residents raised “fat fish” in the numerous fishponds on the island and used the “kukui nut relish” to flavor the fish. These activities highlight the lush and abundant resources on the island. DAVIANNA PÔMAIKA‘I McGREGOR, NĀ KUA ‘ĀINA: LIVING HAWAIIAN CULTURE 193 (2007).

2 Id.

3 Haw. Const. pmbl.


5 Native Hawaiian traditions are closely linked to relationships with the land. By extension, the way we, as a State, choose to use our land dictates much of our identity and the manner in which we live. Hawai‘i 2050 Sustainability Task Force, Hawai‘i 2050: Building A Shared Future 93 (n.d.), http://www.hawaii2050.org/images/uploads/HI2050_web5.pdf.
contrary to this motto, deteriorating Molokā‘i’s natural environment and abundant resources. Diminishing natural resources threatened and continue to threaten the people of Molokā‘i, many of whom practice a subsistence lifestyle to put food on family dinner tables and to perpetuate Native Hawaiian cultural activities. This predicament led to the creation of the Molokā‘i Subsistence Task Force in 1993 to document the importance of subsistence practices to Molokā‘i. The Task Force recognized that management of the resources “traditionally used by the people of Molokā‘i has become more urgent.”

This article proposes the resurrection of the ‘Aha Moku (District island councils)11 natural resource management system on the island of Molokā‘i, focusing on the unique role of subsistence to this island and her people. The high rates of unemployment13 and poverty,14 combined with the highest utility rates in America,15 create an environment where

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6 See generally Molokā‘i Subsistence Task Force, Governor’s Molokā‘i Subsistence Task Force Final Report 4 (Jon Matsuoka et al. eds., 1994). (Stating offshore reefs and oceans were impacted by pollution, erosion and soil run off from tourist, residential development, and ranching. Sand from the West End of Molokā‘i was mined and shipped to O‘ahu to make cement to build the freeways and hotels and to replace loss [sic] sand at Waikiki Beach. Gravel and rocks from East Molokā‘i were used in freeway construction on O‘ahu. Ranching on the East End contributed to deforestation, erosion and runoff. The productive fishponds were allowed to fill with silt and the walls fall [sic] to disrepair following tsunamis and storms. Over-harvesting of marine resources relied upon for subsistence is a growing problem. Wildlife such as deer, goats, pigs, and birds are abundant on privately owned lands but are too scare to be hunted on public lands.).

7 Id.

8 Id. at 6.

9 Id. at 16.

10 Id. at 19 (emphasis added).


12 See, e.g., Part I.

13 As of Dec. 2009, the unemployment rate on the Island of Molokā‘i is 11.9%. E-mail from Ella Alcon, Aide to the Maui County Council, County of Maui, to Trevor N. Tamashiro, student, University of Hawai‘i at Mānoa William S. Richardson School of Law (Feb. 10, 2010, 10:58:03 PST) (citing 2009 Maui Data Book on file with author).


supplementing meager incomes through subsistence helps maintain families’ quality of life on the island.\textsuperscript{16} To create a meaningful resource management system, the State first must recognize the importance of the ‘Aha Moku system, and indeed has through the Moloka‘i Subsistence Task Force\textsuperscript{17} and ‘Aha Kiole Advisory Committee.\textsuperscript{18} The State must then go further to legitimize community management of natural resources as the only sustainable option for the Hawaiian Islands and especially on Moloka‘i.\textsuperscript{19} The State, to date, however, has not specifically addressed with adequate complexity or depth, the implementation of a government supported ‘Aha Moku system on Moloka‘i.\textsuperscript{20}

Moloka‘i bears the affectionate nickname the “Last Hawaiian Island”\textsuperscript{21} because of a 62% Hawaiian population and persisting Native Hawaiian subsistence lifestyle.\textsuperscript{22} Many Moloka‘i’s residents enjoy a rural lifestyle and seek to actively manage their natural resources to ameliorate

\textsuperscript{16} MOLOKA‘I SUBSISTENCE TASK FORCE, \textit{supra} note 6, at 20; In addition to the economic considerations on Moloka‘i, some subsistence practitioners engage in subsistence activities as a lifestyle choice in an effort to connect with their cultural identity. Telephone Interview with Vanda Hanakahi, ‘Aha Kiole Advisory Committee member, in Honolulu, Haw. (Apr. 12, 2010).

\textsuperscript{17} In February 1993, former Hawai‘i State Governor John Waihee appointed the Moloka‘i Subsistence Task Force to document the importance of subsistence activities to Moloka‘i families and how much of the families’ food comes from subsistence. Further, the Governor assigned the task force to determine the problems, which made subsistence fishing, hunting, and gathering harder on Moloka‘i, and to recommend policies and programs to improve the situation. MOLOKA‘I SUBSISTENCE TASK FORCE, \textit{supra} note 6, at 16.

\textsuperscript{18} The ‘Aha Kiole Advisory Committee, created by the Hawai‘i Legislature in 2007, received the task of “initiat[ing] the process to create a system of best practices that is based upon the indigenous resource management practices of moku (regional) boundaries, which acknowledges the natural contours of land, the specific resources located within those areas, and the methodology necessary to sustain resources and the community.” ‘AHA KIOLE ADVISORY COMMITTEE, REPORT TO THE TWENTY-FIFTH LEGISLATURE 2009 REGULAR SESSION: FINAL REPORT 7 (2008) (quoting S.B. 1853, 2007 Leg., 24th Sess. (Haw. 2007)).

\textsuperscript{19} The community stewardship councils or task forces would help to restore management and respect for the island’s natural and cultural resources. MOLOKA‘I SUBSISTENCE TASK FORCE, \textit{supra} note 6, at 98. All of the communities consulted by the ‘Aha Kiole Advisory Committee agreed that they wanted to be consulted and to participate in the natural resource management and governance process, and that each locality has specific differences that are not served by State-wide regulations. ‘AHA KIOLE ADVISORY COMMITTEE, \textit{supra} note 18, at 17.

\textsuperscript{20} Telephone Interview with Vanda Hanakahi, \textit{supra} note 16.

\textsuperscript{21} MOLOKA‘I SUBSISTENCE TASK FORCE, \textit{supra} note 6, at 19.

\textsuperscript{22} The total population on Moloka‘i is 7404, 4599 of which are Native Hawaiian. E-mail from Ella Alcon, Aide to the Maui County Council, County of Maui, to Trevor N. Tamashiro, student, University of Hawai‘i at Mānoa William S. Richardson School of Law (Feb. 10, 2010, 10:58:03 PST) (citing 2009 Maui Data Book on file with author).
the negative impacts development and mismanagement had and continues to have on the “Last Hawaiian Island’s” wealth of resources.\textsuperscript{23} The Molokaʻi Subsistence Task Force conducted a random sample survey and confirmed subsistence activities as one of the basic economic activities on the island, and central to the lifestyle of many Molokaʻi residents.\textsuperscript{24} Molokaʻi residents gathering 28\% of food for home consumption illuminates the significance of the subsistence lifestyle.\textsuperscript{25} Seventy-six percent of respondents asserted that subsistence is either “very important” or “somewhat important” to their families.\textsuperscript{26} The value of subsistence and the necessity of protecting natural resources on Molokaʻi permeates the Molokaʻi Subsistence Task Force Final Report and the Legislative Report submitted by the ‘Aha Kiole Advisory Committee.\textsuperscript{27} Further, the Hawaiʻi State Constitution recognizes and protects subsistence rights, customs, and practices.\textsuperscript{28} What must follow, then, is government action to preserve the indispensable resources and lifestyle for the people of Molokaʻi.\textsuperscript{29}

It is against this backdrop, in 2007, that the Hawaiʻi State Legislature and Governor enacted Act 212, constructing the framework for the ‘Aha Kiole Advisory Committee tasked with advising the State Legislature on “all matters regarding the management of the State’s natural resources.”\textsuperscript{30} The ‘Aha Moku natural resource management system created a healthy, sustainable ecosystem that fed and maintained the Hawaiian community for hundreds of years.\textsuperscript{31} The ‘Aha Kiole Advisory Committee is already in place and currently seeks to establish and restore the traditional ‘Aha Moku natural resource management

\begin{footnotes}
\footnotetext{23}{\textsc{Molokaʻi Subsistence Task Force}, \textit{supra} note 6, at 19.}
\footnotetext{24}{\textit{Id.} at 5.}
\footnotetext{25}{Information from random sample surveys conducted by the Molokaʻi Subsistence Task Force. \textit{Id.}}
\footnotetext{26}{\textit{Id.}}
\footnotetext{27}{See generally \textsc{Molokaʻi Subsistence Task Force}, \textit{supra} note 6; ‘Aha Kiole Advisory Committee, \textit{supra} note 18.

\footnotetext{28}{“The State reaffirms and shall protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua’a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778, subject to the right of the State to regulate such rights.” \textsc{Haw. Const.} art. XII, § 7.}
\footnotetext{29}{Telephone Interview with Vanda Hanakahi, \textit{supra} note 16.}
\footnotetext{30}{Referring to Act 212 of June 27, 2007. \textsc{S.B.} 1853, 2007 Leg., 24th Sess. (Haw. 2007).}
\footnotetext{31}{‘Aha Kiole Advisory Committee, \textit{supra} note 18, at 6; Indeed, even Captain James Cook, in his voyage to Hawaiʻi in 1778 noted that “no where, in the course of my voyages, have I seen so numerous a body of people assembled at one place.” \textsc{James Cook et al.}, \textit{A Voyage to the Pacific Ocean} 574 (1784).}}
Further, Moloka‘i has already initiated an informal ‘Aha Moku system to manage their resources, but the State, to date, has denied them recognition and financial support. The ‘Aha Moku traditional resource management system should be developed, legitimized, and learned from, but the State must convey authority and support onto ‘Aha Moku councils to stave off undesirable development and protect Hawai‘i’s withering natural resources.

Central to traditional resource management is community stewardship. The Moloka‘i Subsistence Task Force suggested creating stewardship councils to: (1) manage resources; (2) educate individuals regarding how to appropriately gather; and (3) how to replenish resources. The Task Force envisioned representation by ahupua‘a (land division usually extending from the uplands to the sea) tenants. Indeed, Sociologist Peter Adler advocates fostering community planning as well as giving communities real authority to take on some rights, responsibilities, and benefits of self-governance. Moreover, critical race theorist Professor Eric Yamamoto asserts his framework of “racializing environmental justice” enables scholars and advocates to recognize the inherent differences of each racial group and the differing contexts contributing to group goals, identities, and differential group power.

32 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 8.
33 Telephone Interview with Vanda Hanakahi, supra note 16.
34 Id.
35 See MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 98-99.
36 Subsistence gathering utilizes a natural process of replenishing stock. For example, the north shore of Moloka‘i provides a moratorium on gathering limu (seaweed) due to the rough ocean and sea cliffs. On the south shore, the community utilizes education and community involvement to maintain their natural resources. The community communicates regarding the availability of resources in areas, moving elsewhere to gather if a particular spot has recently been harvested. This allows the resources to naturally replenish in the area. The process is “like an ebb and flow,” there is no constant taking from any particular area. This process encourages both community interaction and sustainable gathering practices. Telephone Interview with Walter Ritte, Native Hawaiian practitioner and Moloka‘i community organizer, in Honolulu, Haw. (Apr. 15, 2010); MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 99.
38 Stewardship entails all three of these aspects to exist and flourish. MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 99.
39 Peter S. Adler, Reinvigorating Democracy in Hawai‘i: Community Governance and Civic Re-Engagement, 8-9 (n.d.) (unpublished manuscript, on file with author) (emphasis added).
These scholars and advocates lay a theoretical and practical foundation for what could and should lead to the increased self-governance of natural resources through the resurrection of the ‘Aha Moku management system on Moloka‘i.

This article is divided into seven parts. Part I describes the historical context of Moloka‘i’s abundant resources and how the Native Hawaiian community utilized those resources to perpetuate a lifestyle that sustained hundreds of thousands of people. Part II discusses the trend of centralized government in Hawai‘i from the time of ali‘i (royalty) and its impact on local communities and the Native Hawaiian people and culture. Part III provides a legal framework with which to understand the plight of the Native Hawaiian population on Moloka‘i. By understanding and delving into the specific nature of the Native Hawaiian culture and practices on Moloka‘i, advocates and those in a situation to assess the needs and strengths of the community are better able to effectively serve that native population. Part IV illustrates the potential for a decentralized government in Hawai‘i, and specifically, on Moloka‘i. Sociologists and Planning Professors provide theories, concepts, and case studies on the benefits of and considerations for decentralizing government and increasing the role of the community in local governance. Part V depicts the history and methodology of the ‘Aha Moku traditional resource management system and inquires into the specific nature and importance of that management system on Moloka‘i, her people and her resources. Part VI proposes policy rationales for the implementation of the ‘Aha Moku traditional resource management system on Moloka‘i using the framework of racializing environmental justice as well as looking into the solutions of decentralizing government as it pertains to Moloka‘i. Finally, Part VII analyzes a recent development on Moloka‘i and illuminates the shortcomings of a centralized “modern” management system on an island with unique

41 For the scope of this paper I will be focusing on the population on Moloka‘i who are of Native Hawaiian ancestry, regardless of the blood quantum “amount” of Native Hawaiian ancestry claimed by the population.
42 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 6; See infra Part I.
43 PUKUI, supra note 37, at 20.
44 See infra Part II.
45 See infra Part III.
46 Id.
47 See infra Part IV.
48 Id.
49 See infra Part V.
50 See infra Part VI.
circumstances and lifestyles while proposing alternatives for managing such a situation under the ‘Aha Moku traditional resource management system.\textsuperscript{51}

II. HISTORY OF MOLOKA’I’S RURAL LIFESTYLES

Hawaiian chants convey the image of Moloka‘i as a child—small and fragile—that requires nurturing by its residents.\textsuperscript{52} While traditional chiefs of Maui and O‘ahu valued Moloka‘i for its abundant fishponds, plentiful fields of taro, and strategic location, Westerners bypassed Moloka‘i.\textsuperscript{53} In the late 1700s, to the Western eye, the barren land, sparse population, limited fresh water, and deficient harbors made Moloka‘i unsuitable for trade and agribusiness.\textsuperscript{54} Westerners bypassing Moloka‘i contributed to the perpetuation of traditional farming, hunting, and fishing subsistence activities throughout the nineteenth century and to the present, while Westerners saddled the other Hawaiian islands with agribusiness and trade to stimulate economic development.\textsuperscript{55} Because the pace of cultural change on Moloka‘i progressed less fervently than on the major Hawaiian islands,\textsuperscript{56} traditional customs complementing the traditional livelihoods of Moloka‘i residents prospered throughout this period.\textsuperscript{57}

Moloka‘i residents’ history of opposing Western change dates back to the 1800s.\textsuperscript{58} In 1845, King Kamehameha III and the Council of Chiefs announced their intention to initiate a series of changes throughout the Hawaiian islands.\textsuperscript{59} On Moloka‘i, 1344 of 3249 residents signed a petition

\textsuperscript{51}See infra Part VII.

\textsuperscript{52}McGregor, supra note 1, at 191 (2007) (citing Kahukuikamoana, in Fornander, Fornander Collection, Vol. 4 (1916-1917)).

\textsuperscript{53}Id. at 196; see generally, GEORGE PAUL COOKE, MOOLELO O MOLOKAI: A RANCH STORY OF MOLOKAI (1949).

\textsuperscript{54}McGregor, supra note 1, at 196.

\textsuperscript{55}See MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 11; McGregor, supra note 1, at 196.

\textsuperscript{56}The “major” islands referred to are: O‘ahu, Kaua‘i, Maui, and the Big Island. See generally MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6; McGregor, supra note 1, at 196.


\textsuperscript{58}McGregor, supra note 1, at 197.

\textsuperscript{59}The series of changes included the introduction of a system of private property, the naturalization of foreigners, the appointment of foreigners to government positions and the imposition of taxes. Id. at 197; see generally JONATHAN KAY KAMAKAWIWO’OLE OSORIO, DISMEMBERING LĀHUI: A HISTORY OF THE HAWAIIAN NATION TO 1887 44-46 (2002).
to oppose those changes.\textsuperscript{60} Through the Māhele and the Kuleana Act, however, the King granted land awards to foreigners.\textsuperscript{61} Even through this cultural upheaval, the fertile lands and numerous fishponds of Moloka‘i sustained the bulk of the island’s population.\textsuperscript{62} Despite economic changes on the island, 1896 census data showed a mere 175 non-Hawaiians living on Moloka‘i, compared to 2132 Hawaiians.\textsuperscript{63}

Moloka‘i experienced a population decline in the early 1900s.\textsuperscript{64} Many Moloka‘i Hawaiians emigrated to other islands, particularly O‘ahu, to seek jobs and access material goods not available on Moloka‘i.\textsuperscript{65} Remaining males, typically between the ages of ten to twenty years old, found employment at Moloka‘i Ranch.\textsuperscript{66} The highest paid workers earned about $30 a month.\textsuperscript{67} Employees supplemented meager incomes through

\begin{footnotesize}
\textsuperscript{60} "The following is what we desire to request of [King Kamehameha III], our King, and our ali‘i under you in the legislature. 1) For the independence of your nation, King [Kamehameha] III, we do not want the haole you have appointed over the Hawaiian government to serve as officials. 2) We do not want haole to be made naturalized citizens. 3) We do not want you to sell any portion of your nation to haole. 4) Do not place confusing taxes upon your humble people [huna lepo—bits of earth]. May these feelings of ours be shown to you, Your Majesty, and to our ali‘i.” McGregor, supra note 1, at 197-98.

\textsuperscript{61} Id. at 198.

\textsuperscript{62} Id. at 199.

\textsuperscript{63} Short-lived, small-scale enterprises sprinkled the mid-1800s on Moloka‘i, until the major enterprise of ranching cattle, sheep, and goats on a large scale by Kamehameha V and other small farmers took hold of the island economy. Id. at 201.

\textsuperscript{64} Strazar, supra note 57, at 7.

\textsuperscript{65} McGregor, supra note 1, at 204.

\textsuperscript{66} Id. at 205 (citing Albert Kahinu, interview by Mary Kawena Pukui, Kaunakakai, Moloka‘i (May 1, 1961)). Moloka‘i Ranch, a foreign corporation, is the largest landowner on Moloka‘i. Controversy surrounded the corporation as they proposed developing 200 luxury lots on the southwest corner of Moloka‘i, known as La‘au Point. Moloka‘i Ranch promised job creation, but at the cost of cultural and natural resource destruction. Community activism quashed the proposed La‘au Point development. The Native Hawaiian community opposed the proposed development because it would markedly change the lifestyle and crunch the water resources on Moloka‘i. In 2008, Moloka‘i Ranch closed ranch facilities, its golf course, and hotels. Moloka‘i Ranch has, since then, sat idle. Many Moloka‘i residents fear Moloka‘i Ranch is “land banking,” waiting for the economy to recover, then attempt another round of destructive development on the “Last Hawaiian Island.” Interview with Walter Ritte, Native Hawaiian practitioner and Moloka‘i community organizer, in Honolulu, Haw. (Feb. 2, 2010). See Chris Hamilton, Moloka‘i Ranch: A Year After Closure, Times Are Hard but Spirit Is Alive, Maui News (Apr. 19, 2009), http://www.mauinews.com/page/content.detail/id/517428.html; Save La‘au Point, Molokai, http://www.youtube.com/watch?v=ceQQAZvtyds&feature=youtube_gdata (last visited Apr. 22, 2010).

\textsuperscript{67} Id.
\end{footnotesize}
hunting, gathering, and fishing. Thus, even as development enveloped Molokaʻi, subsistence practices and the requisite preservation of natural resources remained the piko (center) for the people of Molokaʻi.

The importance of subsistence practices continued through the latter half of the twentieth century and continues to this day. Pineapple companies and ranching sustained the economy of Molokaʻi, though subsistence fishing, hunting, gathering, and farming continued to supplement the livelihoods and culture of Molokaʻi residents. Molokaʻi legitimized a model of a community-based island economy rooted in subsistence, complementing traditional livelihoods. Tourism and development, however, threatened and continues to threaten this lifestyle balance on Molokaʻi. Further, in 1981, a study conducted by the Urban and Regional Planning Program of the University of Hawaiʻi indicated that tourism, development, and higher prices are inconsistent with the “preferred way of life on Molokaʻi.” Thus, the study informed the State of Molokaʻi’s preferred alternative lifestyle—a lifestyle separate from the

68 Albert Kahinu, a Native Hawaiian from Molokaʻi, recalled that “[l]iving at that time was very friendly. . . all the fish you want . . . you can get in the sea, you can kick the fish with your feet, in those days. Ka i’a ka wāwae o Hilia—The fish that can be kicked at Hilia.” Id. (quoting Albert Kahinu, interview by Mary Kawena Pukuʻi, Kaunakakai, Molokaʻi (May 1, 1961) (Audio-Recording Collection, Anthropology Department, Bernice Pauahi Bishop Museum)).

69 PUKUI, supra note 37, at 328.

70 COOKE, supra note 53, at 40-41.

71 See generally MOLOKAʻI SUBSISTENCE TASK FORCE, supra note 6, at 19-24.

72 Studies of Molokaʻi’s economy from 1970 through 1994 documented the continuing importance of the subsistence lifestyle on the island. McGREGOR, supra note 1, at 242-43; see, e.g., COOKE, supra note 53, at 15.

73 McGREGOR, supra note 1, at 243.

74 In 1970 the University of Hawaiʻi Departments of Anthropology and Geography and the School of Public Health sponsored research in human ecology on Molokaʻi. The report, published as Molokaʻi Studies: Preliminary Research in Human Ecology, noted that if tourist activities were expanded, they would encroach on traditional gathering spots. McGREGOR, supra note 1, at 243 (quoting Henry Lewis, ed., Molokaʻi Studies: Preliminary Research in Human Ecology. Honolulu: Department of Anthropology, University of Hawaiʻi (1970)).

75 In 1981 the Urban and Regional Planning Program of the University of Hawaiʻi published the MOLOKAʻI DATA BOOK: COMMUNITY VALUES AND ENERGY DEVELOPMENT. The study was based on the major values of the Molokaʻi community and policy decisions about alternative energy developments being grounded in the residents’ preferred way of life. The “preferred way of life on Molokaʻi” is closely associated with rural living, Hawaiian culture, slow pace, everybody knowing everybody, family togetherness, and living off the land. McGREGOR, supra note 1, at 243 (quoting PENELope CAnAn ET Al., MOLOKAʻI DATA BOOK: COMMUNITY VALUES AND ENERGY DEVELOPMENT, Honolulu: Urban and Regional Planning Program (1981)).
hustle and bustle of the rest of Hawai‘i.\textsuperscript{76}

In 1987, the closure of pineapple operations on Moloka‘i created an economic crisis that spurred the State to open the Moloka‘i office of the Department of Business and Economic Development and Tourism (“DBEDT”) that same year.\textsuperscript{77} A DBEDT task force recommended that “increased consideration should be given to alternate approaches supportive of subsistence activity as an integral, preferred way of life for many Moloka‘i residents.”\textsuperscript{78} DBEDT, a State agency, further recognized the importance of the subsistence lifestyle on Moloka‘i as well as the cultural importance of traditional resource management.\textsuperscript{79}

Former Governor John Waihee’s subsequent creation of the Moloka‘i Subsistence Task Force, set up in response to concerns raised by a group of Moloka‘i hunters, reviewed all subsistence activities on Moloka‘i, and recommended policies to protect and enhance subsistence on the island.\textsuperscript{80} Completed in 1994, the study concluded that families on Moloka‘i, especially Native Hawaiian families, continued to “rely upon subsistence fishing, hunting, gathering, or cultivation for a significant portion of their food.”\textsuperscript{81} Thus, even today, the unyielding pattern of subsistence practices supplementing meager incomes remains central to maintaining Moloka‘i families’ quality of life.\textsuperscript{82} The vital cultural practice of subsistence gathering requires the availability of renewable natural resources.\textsuperscript{83} The loss of these resources would likely result in an increased economic strain, through welfare and programs, on the rest of the State.\textsuperscript{84}

To prevent further strain in an already depressed economic climate,

\textsuperscript{76} See id.

\textsuperscript{77} In 1987, the unemployment rate on Moloka‘i soared to 20%, three times the state average. Many small businesses shut down. Id. at 244.

\textsuperscript{78} Id.

\textsuperscript{79} In 1990, DBEDT’s Moloka‘i office sponsored a program to protect the vital water resources of the fishpond by proposing a management plan for the resources of the Ualapue`ahupua`a. DBEDT entitled the program “Master Plan for ‘Ualapue` Ahupua’a: Blending Traditions and Technology.” Id. at 244-45.

\textsuperscript{80} See generally MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6; McGREGOR, supra note 1, at 245.

\textsuperscript{81} See MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 19; McGREGOR, supra note 1, at 246.

\textsuperscript{82} McGREGOR, supra note 1, at 246.

\textsuperscript{83} See id. at 247.

\textsuperscript{84} Even with subsistence gathering to supplement their lifestyle, in 1990, 24.4% of the Moloka‘i population received food stamps, 12% received Aid to Families with Dependent Children, and 32.5% received Medicaid. Furthermore, 21% of the families on Moloka‘i earned incomes that fell below the poverty level of $12,674 for a family of four. Id. at 246.
Molokaʻi and the lifestyle of her people should be preserved. Molokaʻi’s history and her residents’ subsistence lifestyles provide a template for the rest of Hawaiʻi to adopt in the face of changing economic circumstances, while preserving renewable natural resources and tapping into management systems of the past. Community-based efforts enabled Molokaʻi residents to successfully postpone resource crippling development while promoting values related to community and family integrity, all through grassroots initiatives. Subsistence activities and other community-based initiatives create a strong sense of a unified community. That unity enables a traditional lifestyle and resource management system to survive failed macroeconomic endeavors while strengthening a proud island community.

A rural empowerment grant from the federal government recognized the continuing significance of subsistence practices to the people of Molokaʻi at the end of the twentieth century. The move granted Molokaʻi a small, but needed measure of self-reliance. Karen Holt, Executive Director of the Molokaʻi Community Services Council, which applied for the designation, explained “We [Molokaʻi] have not been a community with much of a voice in its own destiny. We worked hard to determine what the Molokaʻi community wants for itself, and having this plan honored like this really open[ed] some doors.” The vision statement and economic development plan presented by the Molokaʻi Community Services Council reflects the ongoing significance

85 Interview with Walter Ritte, supra note 66.
86 MCGREGOR, supra note 1, at 247; Interview with Walter Ritte, supra note 66.
87 MCGREGOR, supra note 1, at 248.
88 See ʻAHA KIOLE ADVISORY COMMITTEE, supra note 18, at 23; Luciano Minerbi, In the Face of Globalization: Two Decades of Insurgent Localism in Hawaiʻi, 40 SOCIAL PROCESS IN HAWAIʻI 165, 180-82 (2001); MCGREGOR, supra note 1, at 248.
89 The plantations and ranches both failed to stimulate an economic machine on Molokaʻi. MCGREGOR, supra note 1, at 248.
91 Id.
92 Id.
of Native Hawaiian cultural values and subsistence practices to the people of the “Last Hawaiian Island” as a major cultural foundation in modern Hawai‘i.\textsuperscript{93} While community-based groups strive to assert some measure of self-governance and have attained small successes such as the “enterprise community” designation, they can only fight the swift undercurrent of politics and development for so long.\textsuperscript{94} What must follow is the creation of an agency or granting of authority to Moloka‘i’s intact, but unofficial, ‘Aha Moku council to continue the perpetuation of both cultural practices and responsible renewable resource management for the benefit of all of Moloka‘i’s people.\textsuperscript{95}

III. CENTRALIZING HAWAI‘I’S GOVERNMENT

Moloka‘i, while currently governed by Maui County,\textsuperscript{96} did not always stand in the shadow of their neighboring island. The ali‘i in the 9th Century, A.D., abolished the ‘Aha Kiole (The People’s Council)\textsuperscript{97} Councils throughout the Hawaiian Islands, except for the Island of Moloka‘i.\textsuperscript{98} This left Moloka‘i independent from ali‘i rule, retaining their own ‘Aha Councils.\textsuperscript{99} That independence, however, would not endure the changing structure of Hawaiian monarchy and the government that followed.\textsuperscript{100}

The current state of Hawai‘i’s centralized government dates back to external influences that supported previous government structures.\textsuperscript{101} Moloka‘i and other small communities lost a measure of their autonomy with the unification of the Hawaiian Kingdom in 1810.\textsuperscript{102} Westerners

\textsuperscript{93} A broad cross section of the island designed the plan, envisioning “strong ‘ohana (families) who steadfastly preserve, protect, and perpetuate . . . core Hawaiian values[,] a wise and caring community that takes pride in its resourcefulness, self-sufficiency and resiliency, and is firmly in charge of Moloka‘i’s resources and destiny[,] a Moloka‘i that leaves for its children a visible legacy: an island momona (abundant) with natural and cultural resources, people who kōkua (help) and look after one another, and a community that strives to build an even better future on the pa’a (firm) foundation left to us by those whose iwi (bones) guard our land.” McGREGOR, supra, note 1, at 248 (quoting Moloka‘i Enterprise Community, Moloka‘i Rural Empowerment Zone, Vol. 2, pt. I, § 1, p. 1.).

\textsuperscript{94} Interview with Walter Ritte, supra note 66.

\textsuperscript{95} Telephone Interview with Walter Ritte, supra note 36.

\textsuperscript{96} See Maui County Official Website, http://www.co.maui.hi.us/ (last visited March 01, 2010).

\textsuperscript{97} See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 23.

\textsuperscript{98} Id. at 38.

\textsuperscript{99} Id.

\textsuperscript{100} See generally OSORIO, supra note 59.

\textsuperscript{101} Minerbi, supra note 88, at 168.

\textsuperscript{102} In 1810, King Kamehameha “The Great” conquered all the Hawaiian Islands
exerted their influence by helping King Kamehameha I unify the islands with the aid of arms, technology, money, and administrative knowledge. Norman Meller explained that the central government in Territorial Hawai‘i lay rooted in the monarchy and the chiefly system of the Kingdom of Hawai‘i in 1800. The authoritarian influence of Protestant missionaries and plantation managers carried into the Provisional Government that overthrew the Kingdom of Hawai‘i in 1893, into the Republic of Hawai‘i of 1894, and into the Territory of Hawai‘i post-1898. Various interests converged in the pursuit of centralization. Missionaries desired a new moral order. Plantation owners sought world recognition for international treaties for marketing sugar as well as Chinese, Japanese, and Filipino immigrants to labor in the plantations.

The resulting government responded to American corporate officers, appointing American corporate interests to positions in the new centralized territorial government. The traditional lifestyle enjoyed by Native Hawaiians throughout the islands took a backseat to the new economic forces motivating the government of Hawai‘i. Life had changed dramatically for Native Hawaiians.

Due to Hawai‘i’s current government structure, local communities lack, in major part, the authority and autonomy to manage their natural and cultural resources. Today, counties have attained a greater level of autonomy in local planning, but no bureaucracy exists below that level. Regulatory planning is reserved to County and State governments in spite of existing community plans on Maui, a planning commission on Moloka‘i, Community Councils in the County of Hawai‘i, and advisory “neighborhood boards” on O‘ahu. Further, appointed citizens in


104 Id. (citing Norman Meller, Centralization in Hawaii: Retrospect and Prospect, 52(1) The AMERICAN POLITICAL SCIENCE REVIEW 98 (1958)).

105 See OSORIO, supra note 59, at 9; Minerbi, supra note 88, at 168.


107 Minerbi, supra note 88, at 168.


109 See generally OSORIO, supra note 59, at 240.

110 See generally Adler, supra note 39, at 3.


112 See, e.g., HAWAI‘I COUNTY PLANNING DIRECTOR, HAWAI‘I LAND USE REGULATORY SYSTEM (Mar. 2006),
County governments have only limited input into local planning matters.\textsuperscript{113} Local communities and the average citizen find it increasingly difficult to provide meaningful input to “the government.”\textsuperscript{114}

Since the 1800s, Hawai‘i’s centralized government operated under the influence of a burgeoning world economy that utilized Hawaiian resources, yet valued little to no input from those closest to the resources.\textsuperscript{115} This centralization, which drifts away from “participatory planning,”\textsuperscript{116} is exemplified by local planning for resort and housing projects.\textsuperscript{117} Politicians attempt to advance legislation giving government agencies free reign to make decisions while foregoing the public participation process.\textsuperscript{118} It is no wonder that people no longer see themselves as part of Hawai‘i’s political community.\textsuperscript{119} They believe the voice of the individual person and the community falls on deaf ears.\textsuperscript{120} Sociologist Peter Adler suggests the withdrawal from public life has to do with “a lack of confidence in core social, economic, and political institutions.”\textsuperscript{121} Sociologist Daniel Yankelovich found that the vast majority of Americans “do not believe they are participating in the benefits of economic growth, do not trust (or even know) their neighbors, and feel ignored, misunderstood, or exploited by elected leaders.”\textsuperscript{122}

http://www.co.hawaii.hi.us/planning/Land_Use_Regulatory_System.pdf

\textsuperscript{113} Minerbi, supra note 88, at 169 (citing Karen Mau, Directory of State, County, & Federal Officials, Honolulu: Legislative Reference Bureau (2000)).

\textsuperscript{114} Interview with Walter Ritte, supra note 66.

\textsuperscript{115} See Beechert, supra note 106, at 18-20.

\textsuperscript{116} Participatory planning encompasses notions such as “participatory mapping,” which encourages residents to plot, with the assistance of a planner, the important resources and assets stressors, and issues of the area in which they live, and “visioning” which is a process for community members to state desirable goals and objectives that form a unified vision for their own community. Minerbi, supra note 88, at 170.

\textsuperscript{117} Id. at 169.


\textsuperscript{119} Adler, supra note 39, at 3.

\textsuperscript{120} “Many legislative seats automatically go to incumbents because nobody will run for office. Attending public hearings and submitting public testimony is the exception to the norm. Less and less do people write letters to the newspaper or show up at the school board to make their views known. People do not talk to their neighbors about the issues of the day and they do not attend community meetings. In short, they do not participate in the small, intensely personal and communal acts that nourish local democratic institutions of governance and hold them in check against control by the few.” Id. at 3-4.

\textsuperscript{121} Id. at 4.

\textsuperscript{122} Id.
Moloka‘i is an example of this community disassociation. Many Moloka‘i Hawaiians believe their concerns fall on deaf ears due to their lack of meaningful input regarding the development of Moloka‘i and the utilization of their resources.

IV. RACIALIZING ENVIRONMENTAL JUSTICE

There is an existing framework for “environmental justice,” one that is, perhaps, lacking in regard to the needs of Moloka‘i and her people. “Environmental justice,” as it is known to most scholars, consists of a framework focused on wilderness and wildlife preservation, pollution abatement, population control, and resource conservation. Environmental justice scholarship traditionally focuses on two things: (1) identifying the roots of environmental degradation with disproportionate impacts on racial minorities; and (2) developing solutions for redistributing environmental burdens. While this framework benefits some racial and indigenous communities in certain situations, it does not work as a one-size-fits-all conceptual framework.

Professor Eric Yamamoto builds upon the traditional framework for environmental justice due to the limitations suffered with the traditional framework to establish a new framework. Yamamoto refers to the prevailing framework as “racializing environmental justice,” which

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124 Interview with Walter Ritte, supra note 66.

125 See, e.g., Yamamoto & Lyman, supra note 40, at 314-335.

126 ROBERT D. BULLARD, DUMPING IN DIXIE 1 (1990).

127 Yamamoto & Lyman, supra note 40, at 314.

128 See, contra, Yamamoto & Lyman, supra note 40, at 329. See, e.g., Amanda C.L. Vig, Using Title VI to Salvage Civil Rights From Waste: Chester Residents Concerned For Quality Living v. Seif, 67 U. CIN. L. REV. 907 (1999) (providing insightful analysis of the Third Circuit’s decision in Seif, but discussing only the impact of Seif on "environmental justice plaintiffs"); Valerie P. Mahoney, Note, Environmental Justice: From Partial Victories to Complete Solutions, 21 CARDOZO L. REV. 361, 365 (1999) (identifying racism, economic pressures, and lack of political power as the "three fundamental obstacles exacerbating the problems faced by the environmental justice movement," but not distinguishing racial groups or analyzing cultural or historical context).

129 The traditional environmental justice framework sometimes makes misassumptions about race and fails to develop approaches to environmental racism that account for cultural, power, and goal differences among racial and indigenous communities that extend beyond health and the distributional concerns. See Yamamoto & Lyman, supra note 40, at 315.

130 The term “racializing environmental justice” was used by Professor Eric Yamamoto at the joint session of the Environmental, Civil Rights, and Native American
rethinks the environmental justice framework by focusing on race as it merges with the environment. Yamamoto builds on critical race theory concepts of “differential racialization” and “differential empowerment” to inquire into ways racial communities acquire different identities, status, and power, and how those differences affect their respective connections to “the environment.” Specifically, how a native or indigenous identity provides another, and more complex layer to environmental justice claims. The importance of “acknowledging communities’ important racial and cultural distinctions frees those communities and their advocates to identify, and coalesce around, the similarities of treatment by public and private entities with political and economic power.” For Moloka‘i, this analysis revolves around the majority Native Hawaiian population as well as the cultural and practical importance of the subsistence lifestyles enjoyed by those on the island.

The analysis, however, does not stop with a mere cursory glimpse into the racial and cultural aspects of a native or indigenous community and the environmental claims facing it. Yamamoto further refines the differential racialization analysis by suggesting a notion of “differential forms of disempowerment among communities of color.” Disempowerment is used “to emphasize that [racial] group power in most settings must be assessed in the context of dominant political and economic powers in the area.” Differential racialization and disempowerment concepts provide a preliminary framework for inquiry into specific instances of environmental racism by revealing how history
has “present effects on group identity and group claims.” The racializing environmental justice framework enables scholars to ask meaningful questions about the interplay between race, or marginalized communities, and the environment because it focuses on ways in which history and culture are linked to what most call “the environment.” When applied, this framework illuminates the racialized undercurrent associated with environmental justice claims and individualizes each racial community according to its specific socio-economic needs, cultural values, and group goals. By examining the social, economic, and political history surrounding the largely Native Hawaiian community on Moloka‘i, advocates can appropriately tailor remedies for the harms facing the environmental resources that the community depends on.

V. DECENTRALIZING GOVERNMENT IN HAWAI‘I

University of Hawai‘i Professor of Urban and Regional Planning Luciano Minerbi asserts that Hawai‘i communities do not have local autonomy, because they depend on the County and State for many services, including planning. Minerbi notes that Hawai‘i residents do exert, at times, great leadership, but they lack the localized planning capacity to effectuate change at the local level. Cultural, religious, and subsistence rights justify more locally-based planning. Minerbi suggests that the State engage communities in planning even if those communities lack the institutional capacity to do so. The significance of bottom-up planning is that governments tend not to delegate planning to localities unless they demonstrate that they are able to handle it. Moloka‘i residents have shown time and again that they are ready and capable of assuming planning responsibilities. State creation of a structure of self-governance for Native Hawaiians on Moloka‘i would allow subsistence practitioners to either manage or advise already

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141 Yamamoto, supra note 139, at 64.
142 Yamamoto & Lyman, supra note 40, at 346.
143 Id.
144 See id. at 347.
145 Minerbi, supra note 88, at 165.
146 Id.
147 Id.
148 This approach is referred to as “globalization from below.” Id. at 166 (citing Richard Falk, The Monotheistic Religions in the Era of Globalization, 1 GLOBAL DIALOGUE: THE GLOBALIZATION PHENOMENON 139 (1999)).
149 Minerbi, supra note 88, at 166.
150 See generally Minerbi, supra note 88, at 180-82. Telephone Interview with Vanda Hanakahi, supra note 16; Interview with Walter Ritte, supra note 66.
established government agencies regarding the management of land and water resources.151

Minerbi highlights studies yielding positive results for decentralizing government in Hawai‘i in certain situations.152 The case studies led Minerbi to assert that with proper support, residents can engage in remarkably good local planning.153 This led to the conclusion that as decentralization takes place from the federal government to the states through “block grants,” such as the designation of Moloka‘i as an enterprise community,154 the State and County governments should reassign, with funding support, certain tasks to local communities.155 The fishpond156 restoration initiative on Moloka‘i,157 for example, exemplifies local strategies to deal with marked change in the State.158 Community groups have taken note of the fishpond restoration initiative and have created proposals to rally for increased self-governance on Moloka‘i.159

Minerbi’s decentralization framework, highlighting the indigenous and local cultural practices employed to protect Moloka‘i’s island ecology complements Yamamoto’s framework of racializing environmental justice.160 The two frameworks work in tandem to reveal Native Hawaiian interests by inquiring into the historical and contemporary social influences on Native Hawaiian identity.161 Minerbi suggests Hawai‘i’s

151 See, e.g., ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 58-61.
152 Three case studies illustrated through In the Face of Globalization discuss: (1) Microzoning at the Neighborhood Level in McCully-Mōʻiliʻili, (2) Small-scale, Mixed Land Use and Land Readjustment in Central Honolulu, and (3) Hawaiian Fishponds and Subsistence on Moloka‘i. See generally id.
153 Id. at 182.
154 See Pichaske, supra note 90.
155 Minerbi, supra note 88, at 182.
156 Fishponds or loko i’a, are the ancient Hawaiian aquaculture systems including manmade enclosures used for the cultivation of a variety of edible fish and seafood. See JOSEPH M. FARBER, ANCIENT HAWAIIAN FISHPONDS: CAN RESTORATION SUCCEED ON MOLOKA‘I? 6-12 (1997).
157 The Moloka‘i community emerged as a legitimate voice in planning for their own future. They desired a restoration of fishponds for subsistence use, as well as cultural, historic, and spiritual values. FARBER, supra note 156, at 4-5. More recently, the Hawai‘i State Legislature introduced and enacted legislation to establish the Moloka‘i fishpond restoration project at Mo‘omomi, Moloka‘i as a pilot project for five years. Minerbi, supra note 88, at 183.
158 Minerbi, supra note 88, at 183.
160 Interview with Eric Yamamoto, supra note 135.
161 Yamamoto & Lyman, supra note 40, at 356.
centralized government bureaucracies and multinational elite yield “excessive control of resources by decentralizing planning and management responsibility and entering into partnerships” with local communities. This partnership could work in the context of an ‘Aha Moku council where the State and County governments employ local communities who have “empirical knowledge of the environments and ecosystems” to advise the centralized and slower moving government on matters relating to environmental and cultural importance.

“Adaptive management” enables Native Hawaiian subsistence practitioners to take conservation problems rife with uncertainties and formulate flexible solutions based on what works and what does not—a marked advantage over the slower-moving, rigid, and bureaucracy-laden centralized government. Indicative of the government’s mismanagement of resources is the unrelenting diminution of endemic and indigenous flora and fauna. The synergy created by a joint venture between local communities and government could yield increased socio-political community empowerment.

Perhaps the State and County governments, as well as communities, could benefit by utilizing each other’s strengths and resources. An earnest commitment, through meaningful educational

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162 Perhaps the “partnerships” entered into between the State or County government and local communities would see, as suggested by the ‘Aha Kiole Advisory Committee, local communities as advisors to government agencies to insure management of resources that is sensitive to the environmental and cultural concerns of each specific community at large. See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 21-22; see generally Yamamoto & Lyman, supra note 40, at 347.

163 Minerbi, supra note 88, at 184.

164 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 11.

165 See generally id.

166 The term “adaptive management” refers to subsistence practitioners’ goals of long-term consumptive use of natural resources. In managing their resources, subsistence practitioners conduct scientific-like experiments in the context of their everyday living by constantly adapting effective resource management to a constantly changing environment. Id. at 13-14.

167 Indeed, local communities in general.

168 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 13-14.


170 See Elizabeth M. Rocha, A Ladder of Empowerment, 17 J. PLANNING EDUC. & RESEARCH 31, 39 (1997); see also infra Part VI.

and empowerment opportunities, could facilitate the burgeoning of resources and the cultural lifestyle on Moloka‘i while simultaneously providing a feasible action plan for the State to implement regarding resource sustainability and ambitious, but necessary, visions such as the Hawai‘i 2050 Sustainability Plan.\(^{172}\)

VI. ‘AHA MOKU IN HAWAI‘I

“I Ka Wā Ma Mua, Ka Wā Ma Hope”\(^{173}\) (The future is found in the past).\(^{174}\) Sust‘Àinable Moloka‘i, a Moloka‘i community group, firmly believes that the Hawaiian cultural heritage passed down from the kūpuna (elders)\(^{175}\) empowers them, and the community at-large, to build upon a wealth of community organizing to carve out a future for the “Last Hawaiian Island.”\(^{176}\) To achieve the groups’ goals on Moloka‘i, Sust‘Àinable Moloka‘i strives to implement the traditional ‘Aha Moku resource management system.\(^{177}\) The groups’ vision focuses on the entire island and cultural values to preserve Moloka‘i as a Hawaiian island “firmly rooted in the past and actively invested in its future.”\(^{178}\)

Implementing an ‘Aha Moku system on Moloka‘i is not a stand-alone task.\(^{179}\) Community input builds upon the foundation of Hawaiian culture on Moloka‘i.\(^{180}\) That foundation, however, cannot be laid without preparing for the future.\(^{181}\) Education is the building block that will continue to inspire the flourishing Hawaiian culture on Moloka‘i, an island historically renowned as the center of learning throughout the island

\(^{172}\) Hawai‘i 2050 Sustainability Plan consists of five major goals: Goal One – A Way of Life—Living Sustainably as part of the daily practice in Hawai‘i, Goal Two – The Economy—The diversified and globally competitive economy enables the population to meaningfully live, work and play in Hawai‘i; Goal Three – Environment and Natural Resources—the resources of Hawai‘i are responsibly and respectfully used, replenished and preserved for future generations; Goal Four – Community and Social Well-being—the Hawai‘i community is strong, healthy, vibrant and nurturing, providing safety nets for those in need; and Goal Five – Kanaka Maoli and Island Values—the Kanaka Maoli and island cultures and values should be thriving and perpetuated. See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 8-10.

\(^{173}\) See generally SUST‘ÀINABLE MOLOKA‘I, supra note 159.

\(^{174}\) Id.

\(^{175}\) PUKUI, supra note 37, at 186.

\(^{176}\) Id. at 4-5.

\(^{177}\) Id. at 5.

\(^{178}\) Id.


\(^{180}\) SUST‘ÀINABLE MOLOKA‘I, supra note 159, at 5.

\(^{181}\) See generally Ka Honua Mōmona, supra note 179.
Education is central to the preservation of the subsistence lifestyle on Moloka‘i. All of this, however, is meaningless without a clear plan to “control speculative land sales, along with escalating land values and property taxes.” While Moloka‘i bears abundant resources, her people artfully manage them due to limitations of water, infrastructure, and land space. Vesting management with ‘Aha Moku representatives, selected by communities as advocates to protect and assert community desires regarding traditional natural resource and land management issues, would empower the already active Moloka‘i community to implement their vision of Moloka‘i.

Traditional notions of Native Hawaiian resource management are premised on the understanding that all natural and cultural resources are interrelated. Native Hawaiians identified the interconnectivity within ecosystems. They recognized what is done in one part of the landscape affects the rest of the landscape. An example of this is sediment-laden runoff smothering and killing nearshore reefs. While sediment is an “important, natural component of coral reef systems,” excessive amounts of sediment can lead to the degradation of a reef. Indeed, the damage from human-created activities creating sediment-laden runoff ranks as the first-order cause of reef degradation on Moloka‘i. Native Hawaiians successfully maintained the ‘Aha Moku resource management

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182 SUST’AINABLE MOLOKA‘I, supra note 159, at 5.
183 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 60-61.
184 SUST’AINABLE MOLOKA‘I, supra note 159, at 5.
185 See, e.g., Matsuoka, supra note 169, at 53.
186 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 21.
188 Id.
189 Id.
191 Id. at 137.
192 Id.
193 See id. at 167-68. As an example, sugar mills, a major entity throughout the agribusiness history in Hawai‘i, produce “large amounts of sediment and can create a ‘sludge bank’ devoid of coral in an area of 0.5 kilometers from the point of discharge.” Brian N. Tissot, http://www.coralreefnetwork.com/reefs/ecology/ecology.htm (last visited Mar. 3, 2010) (quoting E.W. Grigg, Some ecological effects of discharged sugar mill wastes on marine life along the Hamakua Coast, Hawaii (1972) (unpublished technical report)).
system to ensure a balanced ecosystem spanning generations. That system, if properly maintained, could preserve both the cultural identity of Native Hawaiians on Moloka‘i and provide a successful template for which the rest of the State could draw upon in preserving Hawai‘i’s dwindling natural resources.

An intimate knowledge of the environment undergirded the ‘Aha Moku system. Hawaiian customs and practices exemplify the belief that all portions of the land and environment are related. Hawaiians subdivided the mokupuni (islands) to better manage finite resources with a growing population. The 1600s brought about the creation of major districts on the islands, the largest of which, moku-o-loko (district, literally: interior island). These districts subdivided into smaller, and perhaps most important and familiar unit of land, the ahupua‘a. Each ahupua‘a represented a complete ecological and economic production system. Native Hawaiians generally defined ahupua‘a boundaries by cycles and patterns of natural resources that extended from mauka (inland) to makai (ocean). Konohiki (resource managers) governed portions of each ahupua‘a.

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194 See generally ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18.
195 Telephone Interview with Vanda Hanakahi, supra note 16; Yamamoto & Lyman, supra note 18, at 11; see generally ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18; MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6.
196 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 11.
197 Native Hawaiians named each environmental zone and developed knowledge of the individual attributes of the area. Kumupono, supra note 187.
198 PUKUI, supra note 37, at 252.
199 Kumupono, supra note 187.
200 PUKUI, supra note 37, at 252.
201 Called ahupua‘a because the boundary was marked by a heap (ahu) of stones surmounted by an image of a pig (pua‘a), or because a pig or other tribute was laid on the altar as tax to the chief. PUKUI, supra note 37, at 9. An ahupua‘a is a narrow wedge-shaped land section running from mountain to ocean. Hawai‘i History, http://www.hawaiihistory.org/index.cfm?fuseaction=ig.page&CategoryID=299 (last visited Apr. 11, 2010).
202 The upland hills would bear fruit and vegetables, be the site of boar hunting, sources of medical plants and roots, and building materials while the coastal region and freshwater streams would be integrated into lo‘i, for the cultivation of taro. FARBER, supra note 156, at 6.
203 PUKUI, supra note 37, at 225 & 242; Kumupono, supra note 187.
204 Konohiki were the headman of an ahupua‘a land division under the chief. PUKUI, supra note 37, at 166.
205 Id. at 20; Kumupono, supra note 187.
governed entire ahupua’a and held jurisdiction over konohiki. District subdividing and strict resource management planning allowed the Native Hawaiian population to prosper, and still continues to benefit Moloka’i Hawaiians today. The autonomy of decentralized districts could well serve the Hawaiian population on Moloka’i, especially due to the strong existing subsistence lifestyle.

As proposed by Yamamoto’s racializing environmental justice framework, a decentralized system of management would best serve different localities, because each has specific differences that are not served by Statewide regulations. The system proposed by the ‘Aha Kiole Advisory Committee in their 2009 legislative report recommended the creation of an ‘Aha Kiole Commission and implementation of the ‘Aha Moku natural resource management system. The proposed Commission would hold status as a high level commission or Board at the State Department level and would advise the Governor. This direct line of communication to the Governor could provide each locality representation regarding their specific interests and needs.

VII. PRESERVING NATIVE CULTURE AND RESOURCES ON MOLOKA’I WITH RESURRECTING ‘AHA MOKU

Yamamoto’s racializing environmental justice framework provides useful insight into the current situation on Moloka’i. Native Hawaiians account for 62% of the population on Moloka’i, a large number of which engage in and rely on subsistence practices. The strong cultural


[207] See id.; MOLOKA’I SUBSISTENCE TASK FORCE, supra note 6.

[208] See MOLOKA’I SUBSISTENCE TASK FORCE, supra note 6, at 27.

[209] See generally Minerbi, supra note 88; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 21; Yamamoto & Lyman, supra note 40.


[211] Id.

[212] See id. at 21-22.

[213] While non-Native Hawaiian families also engage in subsistence practices, this paper utilizes Yamamoto’s framework to focus on and illustrate the potential cultural destruction experienced by the Native Hawaiian population and how best to combat that destruction in the unique context of Native Hawaiian subsistence practitioners on the island of Moloka’i.

[214] The total population on Moloka’i is 7404, 4599 of which are Native Hawaiian. E-mail from Ella Alcon, Aide to Maui County Council, County of Maui, to Trevor N. Tamashiro, student, University of Hawai’i at Mānoa William S. Richardson School of Law (Feb. 10, 2010, 10:58:03 PST) (citing 2009 Maui Data Book on file with author).

[215] See MOLOKA’I SUBSISTENCE TASK FORCE, supra note 6, at 5; infra note 25.
identity practiced through subsistence hunting, fishing, and gathering exemplifies the Native Hawaiian connection to “the environment” as discussed by Yamamoto.\footnote{See Yamamoto & Lyman, supra note 40, at 342.} By inquiring into the Native Hawaiian community and their racial and cultural distinctions, the government, residents, and advocates for Moloka‘i Hawaiians will enable informed and respectful decisions regarding how best to preserve the environment and natural resources as they relate to the Native Hawaiian majority population on Moloka‘i.

To fully grasp the importance of the subsistence lifestyle and the environment to Native Hawaiians, one need look no further than the State-sanctioned Moloka‘i Subsistence Task Force Study and the ‘Aha Kiole Advisory Committee Report.\footnote{See generally MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18.} These reports reveal the significance of subsistence and the health of the environment to Native Hawaiians on Moloka‘i.\footnote{Native Hawaiian families surveyed by the Moloka‘i Subsistence Study Task Force indicated 38% of their food is acquired through subsistence activities. Further, 76% of respondents ranked subsistence as “very important” or “somewhat important” to their own families. Further still, respondents reported receiving food acquired through subsistence activities approximately once a week, and virtually every respondent believed subsistence is vital to the Moloka‘i lifestyle. MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 5 (emphasis added).} The stated goal of the ‘Aha Kiole Advisory Committee is the “establishment and restoration of the traditional and cultural ‘Aha Moku natural resource management system.”\footnote{‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 8.} The Legislature likely tasked the Committee with this goal because the “survival of the Hawaiian culture is proof that [the ancient] system works.”\footnote{Telephone Interview with Vanda Hanakahi, supra note 16; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 8.} Because the government has acknowledged the importance of the cultural practices and underscored the importance of the ‘Aha Moku resource management system, especially in regard to Moloka‘i,\footnote{See generally MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6.} the time is ripe for taking steps toward establishing a system in which Moloka‘i Hawaiians could proactively manage their natural and cultural resources.\footnote{Interview with Walter Ritte, supra note 66; Telephone Interview with Vanda Hanakahi, supra note 16.}

The importance of empowering a community to govern their resources and utilize the experience of an informed and expert population cannot be understated.\footnote{See, e.g., Adler, supra note 39, at 11-13.} The cultural, religious, and subsistence rights
considerations warrant locally-based planning.\textsuperscript{224} Indeed, Molokaʻi Hawaiians have advocated for the increased governance of their lands, separate from centralized rule on Maui, since the 1970s.\textsuperscript{225} Their message reverberates through the decades, “Who loves Molokaʻi more than those who chose to live here? Who understands her more than those who love her?”\textsuperscript{226} The community demanding “proper” planning for Molokaʻi, planning left in the hands of Molokaʻi residents, epitomizes Minerbi’s observation that the people of Hawaiʻi “do exert, at times, great leadership, [but] they usually lack a much-needed localized planning capacity.”\textsuperscript{227}

How can Hawaiʻi be deemed a true democracy when communities of people lack the \textit{capacity}, and \textit{means} to participate in key decisions about their own welfare?\textsuperscript{228} The etymology of “democracy” comes from “demos” meaning “people” and “kratos” translating to “rule.”\textsuperscript{229} Yet, as Minerbi observes, many governmental functions and decisions lay not with the people, but with the State and County governments—separate from the island of Molokaʻi.\textsuperscript{230}

Disenfranchised Native Hawaiian communities on Molokaʻi hope to exert self-governance over their natural resources and cultural practices.\textsuperscript{231} They sit, however, at the mercy of policymakers from neighboring islands.\textsuperscript{232} Molokaʻi’s predicament embodies the conflict between the state’s Constitutional mandate to “protect all rights, customarily and traditionally exercised for subsistence, cultural and religious purposes and possessed by ahupua’a tenants who are descendants of native Hawaiians who inhabited the Hawaiian Islands prior to 1778,” and pressure to develop the island.\textsuperscript{233} To comply with initiatives such as

\begin{itemize}
\item \textsuperscript{224} Minerbi, supra note 88, at 165.
\item \textsuperscript{225} \textit{Faces of Molokai Today Planning Calendar} (Molokaʻi Nui A Hina Planning Calendar), 1976.
\item \textsuperscript{226} \textit{Id}.
\item \textsuperscript{227} Minerbi, supra note 88, at 165.
\item \textsuperscript{228} See Adler, supra note 39, at 3-5.
\item \textsuperscript{230} [HAW. CONST. art. XII, § 7.]
\item \textsuperscript{231} Telephone Interview with Walter Ritte, supra note 36.
\item \textsuperscript{232} \textit{Id}.
\end{itemize}
Hawai’i 2050 Sustainability Plan, the State should implement the recommendation of the ‘Aha Kiole Advisory Commission to implement a permanent ‘Aha council to advise the “governmental agencies involved with regulatory policies pertaining to the ocean and to the land.”

By implementing an ‘Aha Moku resource management system, the State would fulfill dual goals in regard to Moloka’i Hawaiians. The State could protect the cultural identity central to the Moloka’i Hawaiians’ lifestyle while simultaneously bolstering the health of both the economy and natural resources through recognition of the interests and desires of the community by implementing a decentralized resource management system. Tendering management to communities utilizing an ancient system capable of “sustaining hundreds of thousands of residents” has potential for local improvement and may yield a template for effective, sustainable resource management. Employing a model of individual and community empowerment termed “transformative populism” empowers scholars to understand and make amends for the land dispossession and large-scale cultural destruction of Native Hawaiians. Adopting this approach would effectuate the fundamental change recommended by the ‘Aha Kiole Advisory Committee while also utilizing Yamamoto’s racializing environmental justice framework.

Transformative populism takes place through “community development conceptualized through developing the people who comprise the community as the first priority, then attending to the physical development of the neighborhoods in which people live.” The educational aspects proposed by the ‘Aha Kiole Advisory Committee will

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236 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 72.

237 See generally id. at 19; MOLOKA’I SUSTAINABLE SUBSISTENCE TASK FORCE, supra note 6, at 11-13.

238 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 6. See generally SUSTAINABLE MOLOKA’I, supra note 159.


240 See generally Adler, supra note 39, at 10.

241 Rocha, supra note 170, at 37.

242 Yamamoto, supra note 139, at 62.

243 The socio-political “transformative populism” model empowers both the individual and community to collectively challenge oppressive institutional arrangements. Id. at 34 & 37.
fulfill the major developmental aspects of this individual and community empowerment model. The inter-generational transfer of knowledge from kūpuna to student and from ‘Aha Moku council to government decision makers will transform communities into powerful entities, capable of garnering resources for local benefit. This process will also transform members of the community from bystanders into actors and advocates to perpetuate Native Hawaiian culture and lifestyles.

Empowering local communities to manage their own natural resources can have “great social, economic and cultural value.” Delegating governance to local communities allows for quicker, more precise responses to changes in the natural resources and the affected environment. The community would become a “forum,” where ideas about the common good for the community are debated, perfected, and decided. One benefit of this plan is precision: the Native Hawaiian communities of Moloka‘i could carve out appropriate remedies for their specific needs. The majority of Moloka‘i residents lead a lifestyle that is fundamentally different from urban communities throughout Hawai‘i. Implementing statewide policies could smother the Native Hawaiian culture on Moloka‘i and continue to keep decisionmaking authority out of the hands of those with “an intimate knowledge of [their] resources.” Effective recourse, as advocated through the framework of racializing environmental justice, must filter through an individualized process before implementation. The next move belongs to the State government.

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244 See id. at 37-39; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 60-61.

245 See Rocha, supra note 170, at 38.

246 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 11.

247 See generally id. at 13-14.

248 Adler, supra note 39, at 9.

249 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 13-14.

250 See generally MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 38-40; Matsuoka, supra note 169.

251 ‘AHA KIOLE ADVISORY COMMISSION, supra note 18, at 38-39.

252 See Yamamoto & Lyman, supra note 40, at 346.

253 The ‘Aha Kiole Advisory Committee presented their latest report to the State Legislature in December 2008 for the Twenty-Fifth Legislative Session. Governor Linda Lingle then issued Governor Message Number 652 to extend the date of operation for the Committee from June 30, 2009 to June 30, 2011. Following further reports from the Committee, it is not up to the Executive and Legislative Branches of the State of Hawai‘i to take action upon the findings and recommendations of the reports furnished by the Committee. See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18; LINDA LINGLE, GOVERNOR MESSAGE NUMBER 652 (May 1, 2009), http://hawaii.gov/govnat/initiatives/concern/Act%2039%20-%20SB1108%20Statement%20of%20Concern%20Without%20Signature.pdf.
perpetuation of the Native Hawaiian culture and a commitment to sustainability in Hawai‘i are serious considerations, Moloka‘i has been and will continue to be the quintessential example of successful ‘Aha Moku governance. Key to the survival of this culture and management system is the self-governance of the people and communities on Moloka‘i. Centralized rule by Maui has led to and will continue to lead to diminishing natural renewable resources on Moloka‘i. Without those resources we risk the forfeiture of precious Native Hawaiian traditions.

VIII. A Case Study: Zappacosta Mansion

Hawai‘i’s system of centralized governance is exemplified by the Zappacosta “mansion” predicament on Moloka‘i and the illegal use and designation of agricultural lands. In 2004, Pierluigi Zappacosta proposed a 21,000 square foot “farm dwelling” on the west end of Moloka‘i. The Moloka‘i Planning Commission zoned the property “agricultural,” and falls within the Special Management Area (“SMA”). The structure is listed as a “farm dwelling” and references a handful of fruit trees as qualification. Further, the Zappacosta application consists of a 21,000 square-foot mansion listed as a “single family dwelling,” including nine bedrooms, one kitchen, and a swimming pool. The “farm dwelling,” once completed, will be two to three times larger than any “farm dwelling” in the neighborhood and the largest of such dwellings in an agricultural zone in Hawai‘i. The Maui County Planning Department recommended a 100-foot setback from the shoreline area, but that would result in the building exceeding the thirty-foot height limitation. What followed would likely have been avoided under the

254 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 39.
255 See id. at 21.
256 See MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 4.
257 ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 6.
258 Title 19, Section 30A.050 lists permitted principal uses of farm dwellings as needing to be “incidental or subordinate to” agricultural activities such as “one farm labor dwelling per five acres of lot area. Maui County Code on Zoning 19.30A.050.
260 E-mail from Walter Ritte, Native Hawaiian practitioner and Moloka‘i community organizer, to Trevor N. Tamashiro, student, University of Hawai‘i at Mānoa William S. Richardson School of Law (Feb. 24, 2010, 19:34:03 PST) (citing Malia Akutagawa, Legal and Factual Compilation of Zappacosta Matter (Feb. 25, 2010) (unpublished manuscript, on file with author)).
261 Id.
262 Id.
263 Id.
supervision of an ‘Aha Moku council.264

The lacking regulatory oversight began almost as soon as Zappacosta purchased his land and continued through 2010.265 Since 2004, Zappacosta authorized and carried out the unpermitted clearing of rocks and trees, in addition to bringing in approximately 1500-2000 cubic yards of imported fill material to his newly purchased property.266 The grading and clearing on Zappacosta’s lot not only frustrated the State Historic Preservation Division’s ability to perform cultural site evaluations, it also facilitated and continues to cause extensive erosion.267 The lack of on-the-ground oversight in this matter permitted a single developer to not only spoliate Native Hawaiians of their cultural and historic resources, but also contribute substantially to erosion on Moloka‘i.268

Negative cultural and environmental impacts permeate the Zappacosta project.269 Luigi Manera, Project Manager for Zappacosta submitted a deficient SMA270 application and insisted, to Moloka‘i Planner Nancy McPherson, that the fill material actually imported for Zappacosta had been placed by the previous owner.271 Even with these,

264 Telephone Interview with Vanda Hanakahi, supra note 16.

265 E-mail from Walter Ritte, Native Hawaiian practitioner and Moloka‘i community organizer, to Trevor N. Tamashiro, student, University of Hawai‘i at Mānoa William S. Richardson School of Law (Feb. 24, 2010, 19:34:03 PST) (citing Malia Akutagawa, Legal and Factual Compilation of Zappacosta Matter (Feb. 25, 2010) (unpublished manuscript, on file with author)).

266 Id.

267 While the State Historic Preservation Division determined that “no historic properties will be affected due to previous grubbing/grading” they did not realize the grubbing/grading performed by Zappacosta may have destroyed sites of cultural and historic significance before a survey could be completed. Id.

268 See MOLOKA‘I SUBSISTENCE TASK FORCE, supra note 6, at 4.

269 Telephone Interview with Vanda Hanakahi, supra note 16.

270 The SMA permit system, established by the Hawai‘i Coastal Zone Management (“CZM”) Law enacted in 1977 (Chapter 205, Hawai‘i Revised Statutes), provides overarching guidance through State law for managing coastal development. The SMA permit is a management tool to assure that permitted uses and activities that are defined as “developments” in the SMA are designed and carried out in compliance with the CZM objective and policies and SMA guidelines. NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, A PARTICIPANT’S GUIDE TO THE SPECIAL MANAGEMENT AREA (SMA) PERMIT PROCESS IN THE STATE OF HAWAII, 1 (2006), http://www.state.hi.us/dbedt/czm/program/sma/participant_guide_to_the_sma.pdf.

271 E-mail from Walter Ritte, Native Hawaiian practitioner and Moloka‘i community organizer, to Trevor N. Tamashiro, student, University of Hawai‘i at Mānoa William S. Richardson School of Law (Feb. 24, 2010, 19:34:03 PST) (citing Malia Akutagawa, Legal and Factual Compilation of Zappacosta Matter (Feb. 25, 2010) (unpublished manuscript, on file with author)).
and other, missteps, the Maui County Planning Director wrote a letter recommending the Molokaʻi Planning Commission exempt the Zappacosta project from the SMA process. The project, in spite of various hurdles, has been thrust forward for authorization.

The Planning Director, based on Maui, made hasty decisions without considering the full cultural, environmental, and legal implications of the Zappacosta project. The Planning Director went so far as to proclaim the project had no “environmental or cultural impacts.” Perhaps the Planning Director reached these conclusions based on Zappacosta’s promises to not only abide by the SMA code, but to “go above and beyond with compliance.”

The community felt, and the Molokaʻi Planning Commission would admit, albeit unofficially, the lack of accountability regarding Zappacosta’s hollow promises. To combat the perceived injustice, Molokaʻi resident and subsistence farmer Steve Morgan filed a complaint with the Molokaʻi Planning Commission to appeal the Zappacosta exemption. The subsequent course of events illustrates why an ‘Aha Moku council who could “Identify[] and describ[e] a base line assessment of the resources which are essential for subsistence livelihoods to persist” is vital to laying the foundation for the “formulation of policies and regulations to protect natural resources.”

The appeals process for the SMA exemption reveals the myriad of complications Morgan faced. Morgan found himself tangled in a web of appeals with the Molokaʻi Planning Commission for ten months before

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272 On the morning of Apr. 16, 2009, Project Manager Manera submitted dimensions of the primary house, guesthouse, and swimming pool. A new plot plan was then submitted showing the primary house set back an additional 100 feet from the original application which did not include elevations, size of house or the swimming pool. *Id.*

273 *Id.*


275 Interview with Walter Ritte, *supra* note 66.

276 E-mail from Walter Ritte, Native Hawaiian practitioner and Molokaʻi community organizer, to Trevor N. Tamashiro, student, University of Hawaiʻi at Mānoa William S. Richardson School of Law (Feb. 24, 2010, 19:34:03 PST) (citing Malia Akutagawa, Legal and Factual Compilation of Zappacosta Matter (Feb. 25, 2010) (unpublished manuscript, on file with author)).

277 Telephone Interview with Vanda Hanakahi, *supra* note 16.

278 *Id.*; see Murphy, *supra* note 259.

279 See Murphy, *supra* note 259.

280 MOLOKAʻI SUBSISTENCE TASK FORCE, *supra* note 6, at 31; Interview with Walter Ritte, *supra* note 66.

281 See generally Stephenson, *supra* note 274.
the Moloka‘i Planning Commission denied his request to revoke Zappacosta’s SMA permit.\textsuperscript{282} Morgan encapsulated the confusing administrative and appeals process by explaining, “All I am really doing now is jumping through these legal hoops, hoping that somehow we can get to the real meat of the situation.”\textsuperscript{283} Further, Moloka‘i Planning Commission Chairman, Joseph Kalipi, lamented, “the language got messed up. We have to review some of the rules for Moloka‘i.”\textsuperscript{284} During the appeals process with the Moloka‘i Planning Commission, several commissioners admitted they “now thought the building should not have been granted an exemption, but said they could not reverse the decision because their hands were tied by the legal process.”\textsuperscript{285} Mr. Zappacosta benefited from a confusing appeals process, a lack of natural resource management oversight by government agencies, and the lack of authority possessed by community groups opposed to the development from the outset.\textsuperscript{286} The result? An illegally zoned vacation mansion in the guise of an agricultural “farm dwelling” that will likely degrade the nearshore environment and topsoil located on and near the Zappacosta property.\textsuperscript{287} Both the Moloka‘i Planning Commission and the County of Maui Planning Department have left much to be desired regarding the protection of the land and environment that they are responsible for.\textsuperscript{288} Had a State-supported ‘Aha Moku council been in place, instead of relying on the admittedly “convoluted language in the planning department’s laws,”\textsuperscript{289} the result would likely have been more palatable for the community and less arduous for the Planning Department and Commission. Further, the resulting perpetuation of the Native Hawaiian culture and empowerment of those in the local community, both key aspects of the racializing environmental justice framework, would likely have been furthered.\textsuperscript{290} The important aspects\textsuperscript{291} of the environment and culture ignored by the

\begin{itemize}
\item \textsuperscript{282} Id.
\item \textsuperscript{283} Murphy, supra note 259.
\item \textsuperscript{284} Id.
\item \textsuperscript{285} Id. (emphasis added).
\item \textsuperscript{286} Telephone Interview with Vanda Hanakahi, supra note 16.
\item \textsuperscript{287} See U.S. Geological Survey, supra note 190; Murphy, supra note 259.
\item \textsuperscript{289} Murphy, supra note 259.
\item \textsuperscript{290} Telephone Interview with Vanda Hanakahi, supra note 16; see generally Yamamoto & Lyman, supra note 40.
\item \textsuperscript{291} The concept of community stewardship in the ‘Aha Moku traditional management system that respected the rights and resources of tenants within ahupua’a is
Planning Department and Commission, and muddled by the confusing legal system, are a reflection of the deficiencies with the centralized “contemporary management” system attempted on Molokaʻi.292 Had the Planning Director seen Zappacosta’s proposed development and consulted the Molokaʻi community, it is doubtful that he would have granted an exemption to a project rife with such egregious violations.293

Looking forward, the ‘Aha Moku management system currently employed by the people of Molokaʻi hope to advise State and County agencies to avert future developments that threaten their rural lifestyle.294 The State, however, must provide endorsement and support first.295 Borne from the ‘Aha Kiole Advisory Committee’s work, the people of Molokaʻi established an informal ‘Aha Moku system in an attempt to preserve the culture and aloha (love, affection, compassion)296 the Molokaʻi Hawaiians, and residents at large, share with the island.297 Molokaʻi residents, led, in part, by ‘Aha Kiole Advisory Committee member Vanda Hanakahi, fund all work related to the ‘Aha Moku system out of their own pockets.298 While the ‘Aha Kiole Advisory Committee formally recommended and outlined a proposed budget for implementation of an ‘Aha Moku System,299 the Governor has stifled the implementation process by refusing to release financing for the program amid the current economic turmoil the State has experienced in recent years.300 Even in the face of government apathy, the people of Molokaʻi continue to “fight to protect

vital to preserving the environmental balance on Molokaʻi that is necessary for preserving the quality of life on an island with high unemployment, low incomes, a permeating subsistence lifestyle, and deep connection with the Native Hawaiian culture. See generally MOLOKAʻI SUBSISTENCE TASK FORCE, supra note 6; MCGREGOR, supra note 1, at 191-248.

292 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 11-12.

293 The cumulative impact of such a large project along the coastline could have substantial adverse impacts on the near shore environment. See E-mail from Walter Ritte, Native Hawaiian practitioner and Molokaʻi community organizer, to Trevor N. Tamashiro, student, University of Hawaiʻi at Mānoa William S. Richardson School of Law (Feb. 24, 2010, 19:34:03 PST) (citing Malia Akutagawa, Legal and Factual Compilation of Zappacosta Matter (Feb. 25, 2010) (unpublished manuscript, on file with author)).

294 Telephone Interview with Vanda Hanakahi, supra note 16; Telephone Interview with Walter Ritte, supra note 36.

295 Telephone Interview with Vanda Hanakahi, supra note 16.

296 PUKUI, supra note 37, at 21.

297 Telephone Interview with Vanda Hanakahi, supra note 16.

298 Id.

299 See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 62-66.

300 Telephone Interview with Vanda Hanakahi, supra note 16.
the culture and resources on Molokaʻi. Indeed, Ms. Hanakahi lamented that “if the State allowed the ‘Aha Moku [council] to work with government agencies, the Zappacosta [incident] never would have happened.”

IX. CONCLUSION

The communities and citizens of Molokaʻi ask for and demand empowerment. Molokaʻi has, and will continue to be an island separate from “modern” Hawaiʻi. Hanohano Naehu, a Molokaʻi resident and activist, rightly proclaims Molokaʻi to be “the last stronghold for the people who want to protect the resources.” Many Molokaʻi residents “don’t want to be like Oʻahu . . . . Or like Maui.” Luxury projects such as those pursued by Zappacosta undergird the proposed and unpopular trend to develop the “Last Hawaiian Island.” Indeed, many on Molokaʻi are “sick of what’s going on . . . and want to be in charge of our own destiny, no matter the cost.”

State-sanctioned study commissions have documented the prevailing subsistence lifestyle on Molokaʻi and recommended the need for legitimized natural resource management on the island. The centralized “modern” government has made attempts to abide by the Hawaiʻi State constitutional credo to protect the subsistence rights of Native Hawaiians, but perhaps the caveat “subject to the right of the State to regulate such rights” has overwhelmed the rights of Native Hawaiians. Without an adequate resource management system to oversee and ensure the survival of the resources required for subsistence activities, the Constitutional commitment to protect subsistence rights would hold no true value.

Molokaʻi has implemented a proven, yet unofficial, ‘Aha Moku

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301 Interview with Walter Ritte, supra note 66.
302 Telephone Interview with Vanda Hanakahi, supra note 16 (emphasis added).
303 See generally SustʻĀinable Molokaʻi, supra note 159.
305 Id.
306 See id.
307 Interview with Walter Ritte, supra note 66.
308 Telephone Interview with Vanda Hanakahi, supra note 16. See generally MOLOKAʻI SUBSISTENCE TASK FORCE, supra note 6; ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18.
309 HAW. CONST. art. XII, § 7.
310 Interview with Walter Ritte, supra note 66.
management system.\textsuperscript{311} What Moloka‘i residents need in order to thrive is the support and trust of both the County of Maui and State of Hawai‘i to manage their own resources as a government-sanctioned ‘Aha Moku council.\textsuperscript{312} Without that trust and authority, it is just a matter of time before lifestyle and resources on the “Last Hawaiian Island” becomes merely a tale told to keiki (child).\textsuperscript{313} Without ‘Aha Moku, food independence and the Hawai‘i 2050, goals became impossible to reach.\textsuperscript{314}

The time to implement a foundational change on Moloka‘i is here.\textsuperscript{315} Formally resurrecting and recognizing the ‘Aha Moku system fits the already predominantly rural lifestyle on Moloka‘i and empowers a Native community to control a lifestyle they are already accustomed to and gives them a legitimate voice in the local government, something sorely lacking today.\textsuperscript{316} Moloka‘i’s markedly divergent lifestyle from practically every other town, city, or island in Hawai‘i enables the community-based ‘Aha Moku system to serve as a jumping point for the strong leaders of Moloka‘i to work in cooperation with the County and State governments. A more productive alternative to railing against decisions coming from central government seats “on islands that don’t understand them.”\textsuperscript{317}

Beyond Moloka‘i, the resurrection of the ‘Aha Moku system provides unique educational, cultural, and environmental opportunities for the State of Hawai‘i.\textsuperscript{318} Legislators recognize the need for a more sustainable lifestyle throughout the islands and have accordingly acted to pursue avenues which may revolutionize Hawai‘i’s economy and governance structure.\textsuperscript{319} The monetary incentive of development on

\textsuperscript{311} See ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 38-39.

\textsuperscript{312} Id.

\textsuperscript{313} PUKUI, supra note 37, 142.

\textsuperscript{314} The Hawai‘i 2050 Sustainability Plan lists five goals that coincide with the resurrection of the ‘Aha Moku natural resource management system: (1) To live sustainably as a party of our daily lives in Hawai‘i, (2) To diversify and compete globally to have a meaningful lifestyle through work and play in Hawai‘i, (3) To responsibly and respectfully use the natural resources of Hawai‘i while replenishing and preserving them for future generations, (4) To provide safety community and social well-being for our community, and (5) to allow the Kanaka Māoli and island cultural values to thrive and be perpetuated. ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 8-9; Interview with Walter Ritte, supra note 66; Telephone Interview with Vanda Hanakahi, supra note 16.

\textsuperscript{315} Interview with Walter Ritte, supra note 66.

\textsuperscript{316} Telephone Interview with Vanda Hanakahi, supra note 16.

\textsuperscript{317} Interview with Walter Ritte, supra note 66.

\textsuperscript{318} Id.

\textsuperscript{319} Telephone Interview with Vanda Hanakahi, supra note 16.
Moloka‘i pales in the face of the preferred rural lifestyle.\footnote{Id.} The sentiment permeating much of rural Moloka‘i is “at what price do we allow lands to be sold and developed?”\footnote{Id.}

O‘ahu should take heed and follow suit to preserve what little food independence we have left.\footnote{Interview with Clayton Hee, State Senator, Hawai‘i State Legislature, in Honolulu, Haw. (Feb. 2, 2010).} For example, the proposal to develop the prime agricultural lands in the Ewa Plains has many environmental advocates questioning the development-driven economy Hawai‘i has become.\footnote{Joannie Dobbs & Alan Titchenal, Economic Benefits Short in Building on Farm Land, \textit{STAR-BULLETIN}, Oct. 5, 2009, http://www.starbulletin.com/features/20091005_economic_benefits_short_in_building_on_farm_land.html.} With an ‘Aha Moku council in place, it would advise agencies tasked with permitting development regarding the environmental and cultural matters associated with the proposed development. The council would also enhance the community’s access to government with support and validation for cultural values, integrity and activities.\footnote{Telephone Interview with Vanda Hanakahi, supra note 16. \textit{See generally ‘AHA KIOLE ADVISORY COMMITTEE, supra note 18, at 21.}} This validation would ideally preserve the picturesque Hawai‘i the tourism sector capitalizes upon to fuel our economy, and simultaneously increase the possibility of much needed food independence in our islands.\footnote{Id.}

The current political climate, abound with financial difficulties such as Furlough Fridays and a looming budget deficit paints a gloomy picture for those hopeful of a new State-funded resource management council on Moloka‘i.\footnote{Interview with Clayton Hee, supra note 322.} What can be done now, however, is “Ho‘omanawanui,” roughly translating to “plant the seeds and let it grow,” the ideal that change will not happen overnight.\footnote{Telephone Interview with Walter Ritte, supra note 36.} Moloka‘i has, and will continue, to fight for the preservation of their natural resources and subsistence lifestyle, always “thinking of now and the future.”\footnote{Id.} Recognizing and learning from the mindset and lifestyle of those on Moloka‘i could lead to the marked change Hawai‘i needs to step into a more food independent and sustainable future.\footnote{Telephone Interview with Vanda Hanakahi, supra note 16.} Hawai‘i has indeed made progress on many levels of sustainability and recognition of Native
Hawaiian rights, but on this front, perhaps the “future is found in the past.”\textsuperscript{330}

\textsuperscript{330} SUSTʻĀINABLE MOLOKAʻI, supra note 159, at 1.