

Love, Memory, and Reparations: Looking to the Bottom to Understand Hawai‘i’s Mauna Kea Movement

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ABSTRACT

The activism on Mauna Kea opposing the construction of the Thirty Meter Telescope has become a flashpoint in local media and a watershed moment for Hawaiian movements. In this Note, I apply the critical legal theory concept of “looking to the bottom” to understand the Mauna Kea movement as part of a broader theory of reparations for Native Hawaiians. First articulated by Asian-descended and Hawai‘i-based law professor, Mari Matsuda, the method of “looking to the bottom” means listening to the voices of those who have experienced discrimination. Looking to the bottom thus suggests that the Hawaiian-led Mauna Kea protests are part of the process of reparations for a long history of imperialism, colonialism, dispossession, and disenfranchisement. Finally, embodying the methods of “looking to the bottom” to view the Mauna Kea protests as part of the call for reparations carries implications for how Asians in Hawai‘i should think about supporting the movement.

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DOI: <https://doi.org/10.15779/Z38ZG6G79S>

[†]. J.D., Yale University, School of Law, 2022. There are many I’d like to thank: the editors of the Asian American Law Journal for all their hard work on this piece; all those in law school who introduced me to this school of thought; Professor Douglas Kysar, who showed me there are many ways to write legal scholarship; and Professor Mari Matsuda, whose words inspired this article. I can’t forget a thank you to all my Kumu in Hawai‘i, who taught me what it means to be a steward of the land. And finally, a thank you to the land itself. Mahalo me ke aloha lā.

INTRODUCTION: THE ROAD TO MAUNA KEA

I ka wā mua, ka wā ma hope.
Through the past is the future.¹

Hawaiian proverb

The road to the summit of Mauna Kea is rough and winding. It slowly ascends from the lush vegetation near sea level and weaves through an arid, red-dirt landscape, until, at last, the path emerges above the clouds. The air is crisp and chill. The nights are a riot of stars. Here, say astronomers, is an ideal location for a telescope, with the summit's dry climate and clear, vast skies.

But astronomers are not the only ones who lay claim to the mountain. Here, say the Native Hawaiian people—who refer to themselves as Kānaka Maoli²—is the home of Nā Akua (the gods) and Nā ‘Aumākua (the divine ancestors), the sacred place where Papa (Earth Mother) and Wākea (Sky Father) met.³ And here, too, is where Hawaiian protestors have been periodically arrested since 2015 for blocking construction of the proposed Thirty-Meter Telescope (TMT).

The protests, arrests, and resulting movement have been a flashpoint of controversy in my home state of Hawai‘i. But while the Mauna Kea movement swelled into a new wave of Hawaiian pride and attracted encouragement and attention from around the globe, I noticed the absence of support from Asian and Asian descendants in Hawai‘i.⁴ Considering that absence, I wondered how I, as a fifth-generation Asian, Hawai‘i born-and-raised law student, could understand this movement.

1. Lena Lei Ching, *Ka Wā Ma Mua, Ka Wā Ma Hope* 1 (2003) (unpublished M.F.A. thesis) (University of Hawaii, on file with University of Hawaii); Natalie Kurashima et al., *I ka wā ma mua: The Value of a Historical Ecology Approach to Ecological Restoration in Hawai‘i*, 71 PAC. SCI. 437, 440 (2017).

2. The State of Hawai‘i relies on a contested legal distinction between the terms “Native Hawaiians” and “Hawaiians” to generally refer to persons descended from the indigenous people living in the Hawaiian Islands before 1778, the time of first contact with Europeans. Some scholars use the term “Kānaka Maoli,” which translates into “real people” or “true people.” While I use these terms more or less interchangeably, it is important to note that some supporters of Hawaiian sovereignty, including many indigenous people in the islands, prefer the term “Kānaka Maoli.” I have chosen not to italicize any Hawaiian words used out of respect for the Hawaiian language (‘Ōlelo Hawai‘i) as the original tongue of the islands and of the Hawaiian people. See DETOURS: A DECOLONIAL GUIDE TO HAWAI‘I (Hōkūlani K. Aikau & Vernadette Vicuña Gonzalez, eds., 2019); Davianna Pōmaika‘i McGregor & Melody Kapilialoha MacKenzie, OFFICE OF HAWAIIAN AFFAIRS, *Mo‘olelo Ea O Nā Hawai‘i: History of Native Hawaiian Governance in Hawai‘i* (2014); Stephanie Nohelani Teves, *We’re All Hawaiians Now: Kanaka Maoli Performance and the Politics of Aloha* (2012) (unpublished Ph.D. dissertation, University of Michigan) (on file with the University of Michigan). See generally J. KĒHAULANI KAUANUI, HAWAIIAN BLOOD: COLONIALISM AND THE POLITICS OF SOVEREIGNTY AND INDIGENEITY (2008) (analyzing the history of Hawai‘i’s blood quantum law).

3. Paul Babie, *A New Narrative: Native Hawaiian Law*, 39 U. HAW. L. REV. 233, 239-40 (quoting *Mauna Kea Anaina Hou v. Bd. of Land & Natural Res.*, 363 P.3d 224, 238 (Haw. 2015)).

4. See *infra* note 73.

In this Article, I contextualize the Mauna Kea protests by demonstrating that, when seen through the lens of “looking to the bottom” as outlined by University of Hawai‘i law professor Mari J. Matsuda, these protests are part of Hawaiians’ calls for reparations for their long history of dispossession, particularly as it pertains to the land and natural environment. Part I begins with a brief history of the Mauna Kea protests and the source of the current conflict. Part II introduces Matsuda’s method of “looking to the bottom” and connects the history of Hawaiian dispossession to the protests and explaining how the protests can be seen as a form of reparations. Part III then explains how Asians in Hawai‘i have benefited from, and play a role in, Kānaka Maoli struggles. Finally, Part IV covers the “why” and the “how.” By introducing a cultural-legal lens centered on “love” and “memory,” this Article connects the concept of reparations, elaborated through Matsuda’s framework, to explain the necessity of Asian support for the Mauna Kea protests in Hawai‘i.

I. KŪ KIA‘I MAUNA: A BRIEF HISTORY OF THE MAUNA KEA PROTESTS

[Mauna Kea] is a temple . . . so that man could learn the ways of the heavens and the laws of this earth, which mean how do we live with each other; how do we live in relationship to the earth . . .⁵

Kealoha Pisciotta, President, Mauna Kea Anaina Hou

A. A Brief History of the Mauna Kea TMT Protests

One could argue that this narrative began in 1778, when Europeans first made contact with the indigenous people of the Hawaiian Islands. But the saga of the TMT more specifically started in 2010, when the University of Hawai‘i at Hilo applied to the state for approval to build the new telescope on Mauna Kea, on the Island of Hawai‘i (also known as the Big Island).⁶

Opponents included Kānaka Maoli, many of whom insisted that the construction of the TMT would desecrate and environmentally harm the summit, a sacred site within the Hawaiian cosmology.⁷ Opponents referred to an ongoing history of wrongs committed on the summit, including poor stewardship by the University of Hawai‘i and resulting ecological damage.⁸ For example, critics highlighted a 1998 state audit that found that the

5. Wesley J. Furlong, *Mauna Kea Anaina Hou v. Board of Land and Natural Resources*, at 2 [0 Case Summaries 2015-2016] PUB. LAND AND RESOURCES L. REV. 2 (quoting Kealoha Pisciotta, President, Mauna Kea Anaina Hou).

6. Babie, *supra* note 3, at 239; Furlong, *supra* note 5, at 2.

7. Babie, *supra* note 3, at 239.

8. See OFFICE OF HAWAIIAN AFFAIRS, *OHA Files Lawsuit Against State for Mismanagement of Mauna Kea* (Nov. 8, 2017), <https://www.oha.org/news/oha-files-lawsuit-state-mismanagement-mauna-kea> [https://perma.cc/LY5F-BMDS]; Stewart Yerton, *Should UH Still Manage the Mauna Kea Summit?*, HONOLULU CIV. BEAT (Jan. 26, 2018), <https://www.civilbeat.org/2018/01/should-uh-still-manage-the-mauna-kea-summit> [https://perma.cc/C6MS-7KTQ].

observatories had left trash and jeopardized endangered species.⁹ Critics also called out hazardous material spills, such as a 2008 incident in which 1,000 gallons of sewage overflowed on the mountain.¹⁰ And in a 2011 lawsuit, *Mauna Kea Anaina Hou v. Board of Land and Natural Resources*, Hawaiian TMT opponents argued that the state's procedure for approving the telescope violated their due process rights.¹¹

But even as the court case dragged on, the focus moved swiftly to Mauna Kea itself. Native Hawaiian protestors opposed the TMT groundbreaking ceremony in October 2014.¹² More demonstrations followed, with Hawaiian activists and their allies on Mauna Kea calling themselves “Kū Kia‘i Mauna,” or “Guardians of the Mountain.”¹³ Hawaiian activists set up a permanent vigil on the access road, blocking construction and staff from ascending to the summit.¹⁴ Arrest followed arrest, but the protests continued, even as the standoff bled into 2015.

When thirty activists were arrested in April of 2015, the world beyond the islands took notice.¹⁵ Through the summer and into the fall, protests in support of the kia‘i spilled into the streets of Honolulu even as the vigil, arrests, and stalling of construction continued on the mountain.¹⁶ Throughout the process, the state, including Governor David Ige—himself a third-generation Japanese-American and Hawai‘i resident¹⁷—continued to support

9. Anita Hofschneider, *Fact-Checking Environmental Concerns About The Thirty Meter Telescope*, HONOLULU CIV. BEAT (Aug. 2, 2019), <https://www.civilbeat.org/2019/08/fact-checking-environmental-concerns-about-the-thirty-meter-telescope> [<https://perma.cc/ZV59-Q9DC>].

10. *Id.*; see also OFFICE OF HAWAIIAN AFFAIRS, *supra* note 8.

11. Babie, *supra* note 3, at 240.

12. Dennis Overbye, *Under Hawaii's Starriest Skies, a Fight Over Sacred Ground*, N.Y. TIMES (Oct. 3, 2016), <https://www.nytimes.com/2016/10/04/science/hawaii-thirty-meter-telescope-mauna-kea.html> [<https://perma.cc/F9T5-KJ5M>].

13. *Id.*

14. *Id.*

15. See Ben Gutierrez, *A Day After Arrests, Mauna Kea Telescope Protest Grows*, HAW. NEWS NOW (Apr. 4, 2015) (describing celebrity attention and growing overall support for the protests), <https://www.hawaiinewsnow.com/story/28719978/a-day-after-arrests-mauna-kea-telescope-protest-grows> [<https://perma.cc/T3BK-4WR8>]; Anita Hofschneider, *Mauna Kea Is the Latest in Long History of Native Hawaiian Protests*, HONOLULU CIV. BEAT (Aug. 30, 2019), <https://www.civilbeat.org/2019/08/mauna-kea-is-the-latest-in-a-long-history-of-native-hawaiian-protests> [<https://perma.cc/LZR2-KYUY>]; Ian Scheuring, *Local Celebrities Take to Social Media in Mauna Kea Protests*, HAW. NEWS NOW (Apr. 6, 2015) (describing celebrity support for the Mauna Kea movement after April 2, 2015 arrests), <https://web.archive.org/web/20150408145902/http://www.hawaiinewsnow.com/story/28730585/more-arrests-reported-sunday-during-mauna-kea-protests> [<https://perma.cc/P7ZD-K62L>].

16. See Nathan Eagle, *Mauna Kea Protesters Arrested as TMT Tries to Resume Construction*, HONOLULU CIV. BEAT (June 24, 2015), <https://www.civilbeat.org/2015/06/mauna-kea-telescope-protesters-arrested-as-tmt-resumes-construction> [<https://perma.cc/FQP8-9K5X>]; Mileka Lincoln, *Eight More TMT Protesters Arrested on Mauna Kea*, HAW. NEWS NOW (Sep. 9, 2015), <https://www.hawaiinewsnow.com/story/29990449/eight-more-tmt-protesters-arrested-on-mauna-kea> [<https://perma.cc/NS36-PAP8>].

17. *Hawaii Inaugurates Second Japanese-American Governor*, JAPAN TIMES (Dec. 2, 2014), <https://www.japantimes.co.jp/news/2014/12/02/national/hawaii-inaugurates-second-japanese-american-governor> [<https://perma.cc/5H2M-ZF9C>].

the TMT construction and open access to the summit roads,¹⁸ although Ige also suggested proposals for better stewardship of the telescope sites.¹⁹

The Supreme Court of Hawai‘i approved the TMT building permit in 2018.²⁰ Hawaiian activists promised increased resistance,²¹ and the conflict hit a boiling point in July 2019 when law enforcement arrested Native Hawaiian elders, or kūpuna, who were protesting on the summit road.²² Simultaneously, Governor Ige signed an emergency proclamation intended to authorize further activation of the National Guard, issue warnings, mobilize personnel and control public access to Mauna Kea—in other words, get construction started.²³ Activists documented the Mauna Kea movement on social media, publishing powerful images of elderly kūpuna arrested by heavily armed police.²⁴ Once again, the movement was thrown into the global spotlight, gaining support from presidential candidates²⁵ and celebrities,²⁶ and garnering comparisons to the similarly controversial yet much-lauded indigenous protests at Standing Rock.²⁷

18. See Nathan Eagle, *Ige: “We Will Do Whatever Is Necessary to Ensure Lawful Access”*, HONOLULU CIV. BEAT (June 26, 2015), <https://www.civilbeat.org/2015/06/ige-we-will-do-whatever-is-necessary-to-ensure-lawful-access> [<https://perma.cc/V6GF-5WDD>].

19. See Anita Hofschneider, *Ige Supports Construction of TMT, Asks UH to Better Manage Mauna Kea*, HONOLULU CIV. BEAT (May 26, 2015), <https://www.civilbeat.org/2015/05/ige-supports-construction-of-tmt-asks-uh-to-better-manage-mauna-kea> [<https://perma.cc/4TDF-BUKU>].

20. See *In re Contested Case Hearing Re Conservation Dist. Use Application HA-3568*, SCOT-17-0000777, 431 P.3d 757 (2018); *Hawaii Supreme Court Upholds Permit for Thirty Meter Telescope*, NBC NEWS (Oct. 31, 2018), <https://www.nbcnews.com/news/asian-america/hawaii-supreme-court-upholds-permit-thirty-meter-telescope-n926756> [<https://perma.cc/G5JU-RPX8>]. For a timeline of the legal battle over the TMT from the TMT project’s perspective, see *Timeline*, THIRTY METER TELESCOPE, <http://www.maunakeaandtmt.org/wp-content/uploads/2019/07/TMT.Timeline.2019.pdf> [<https://perma.cc/5TDS-PREN>].

21. See Ruben Kimmelman, *Hawaii’s Supreme Court OKs Construction of Giant Telescope Despite Native Objections*, NAT’L PUB. RADIO (November 1, 2018), <https://www.npr.org/2018/11/01/662603605/hawaiis-supreme-court-oks-construction-of-giant-telescope-despite-native-objecti> [<https://perma.cc/K3GH-4EMC>] (paraphrasing activist Kaho’okahi Kanuha as saying that “Hawaiians should get ready for non-violent resistance”).

22. Anita Hofschneider, *Another ‘Truce’ After A Day Of Arrests On Mauna Kea*, HONOLULU CIV. BEAT (July 17, 2019) <https://www.civilbeat.org/2019/07/arrests-begin-as-tmt-protesters-block-road> [<https://perma.cc/EN56-N2ND>].

23. *E.g., id.*; Aida Chavez, *Activists Camped at Hawaii’s Mauna Kea Face Government Opposition as They Attempt to Block Telescope Construction on Sacred Land*, INTERCEPT (July 24, 2019), <https://theintercept.com/2019/07/24/hawaii-mauna-kea-telescope-protest> [<https://perma.cc/NK57-NXMD>].

24. See Sterling Higa, *The Social Media Movement Behind the Mauna Kea Protests*, HONOLULU CIV. BEAT (Aug. 8, 2019), <https://www.civilbeat.org/2019/08/sterling-higa-the-social-media-movement-behind-the-mauna-kea-protests> [<https://perma.cc/TS2W-X3C2>]; *e.g.*, Mikeyokey (@karaokecomputer), TWITTER (July 18, 2019, 7:50AM), <https://twitter.com/karaokecomputer/status/1151821442247356417> [<https://perma.cc/7587-MEEH>].

25. *E.g.*, Chavez, *supra* note 23 (noting statements of support for the Mauna Kea protests from 2020 Democratic presidential candidates Elizabeth Warren, Bernie Sanders, and Tulsi Gabbard).

26. *E.g.*, Ben Gutierrez, *Janet Jackson Explains Why the TMT Protest Is Part of Her Hawaii Concerts*, HAW. NEWS NOW (Nov. 22, 2019, 10:22PM), <https://www.hawaiinewsnow.com/2019/11/23/janet-jackson-explains-why-tmt-protest-is-part-her-hawaii-concerts> [<https://perma.cc/J65M-9WL2>].

27. See Chavez, *supra* note 23.

In the years since, as the fight over Mauna Kea has continued, many Kānaka Maoli view the protest as generating a new wave of Hawaiian pride that embodies essential concepts of love, sovereignty, and stewardship of the land.²⁸ But the movement has had its controversies. Local media depicted a sharp divide in opinion,²⁹ with non-Hawaiians expressing opposition to the protestors and support for the TMT.³⁰ Many TMT supporters suggested that the telescope would bring jobs and support scientific discovery.³¹

I saw this divide play out when I witnessed the surge of emotion and pride among Hawaiian friends who shared images of themselves watching dawn rise on the Mauna with the kia'i or joined satellite protests from afar. And yet I also heard commentary from non-Hawaiian peers, including many of Asian descent, who expressed support for the TMT or displeasure with the activists' methods.³² I wondered how to understand the Mauna Kea protests in a way that was best for the place I loved—for my community, for my home.

II. LOOKING TO THE BOTTOM: PROTECTING MAUNA KEA AS REPARATIONS

Hawai'i-based law professor Mari J. Matsuda, a founder of critical race theory and herself a Japanese descendant who grew up in the islands,³³ suggests a way forward in her famous article, *Looking to the Bottom*.³⁴

28. Anita Hofschneider, *Mauna Kea Ignited a New Wave of Hawaiian Pride. Where Does It Go from Here?*, HONOLULU CIV. BEAT (Feb. 5, 2020), <https://www.civilbeat.org/2020/02/mauna-kea-ignited-a-new-wave-of-hawaiian-pride-where-does-it-go-from-here> [<https://perma.cc/Y59C-28YL>].

29. E.g., Laura Ruminski, *Reactions to Poll Highlight Division Over TMT*, HAW. TRIB. HERALD (Aug. 14, 2019), <https://www.hawaii-tribune-herald.com/2019/08/14/hawaii-news/reactions-to-poll-highlight-division-over-tmt> [<https://perma.cc/6YEP-YUVJ>].

30. E.g., Eric Lindborg, *TMT Could Honor Hawaiian Culture and Traditions*, HONOLULU CIV. BEAT (Aug. 24, 2019), <https://www.civilbeat.org/2019/08/tmt-could-honor-hawaiian-culture-and-traditions> [<https://perma.cc/6XHM-7VED>]. However, some commentators of Hawaiian descent also expressed reservations about the protest. See, e.g., Samuel Wilder King II, *It's Time to Hold TMT Protestors Accountable*, HONOLULU CIV. BEAT (Nov. 22, 2019), <https://www.civilbeat.org/2019/11/exactly-who-are-the-protesters-of-the-tmt> [<https://perma.cc/V2AW-977C>].

31. E.g., Andrew Cooper, *TMT Is About Discovery But It's Also About Jobs*, HONOLULU CIV. BEAT (Aug. 18, 2016), <https://www.civilbeat.org/2016/08/tmt-is-about-discovery-but-its-also-about-jobs> [<https://perma.cc/Q88A-XYPF>].

32. Contemporaneous polls backed up this anecdotal evidence to a degree, showing 81 percent of Chinese residents, 82 percent of Japanese residents, and 56 percent of Filipino residents supporting the TMT. Hawaiian residents were far more likely to oppose the TMT, even if sentiment was split, with 48 percent of Hawaiian residents against the telescope and 44 percent supporting. Chad Blair, *Civil Beat Poll: Strong Support for TMT But Little Love for Ige*, HONOLULU CIV. BEAT (Aug. 7, 2019), <https://www.civilbeat.org/2019/08/civil-beat-poll-strong-support-for-tmt-but-little-love-for-ige> [<https://perma.cc/QV9Z-LYE9>].

33. In fact, we grew up in the same neighborhood: my beloved, lush Mānoa Valley. See, e.g., Mari J. Matsuda, *Are We Dead Yet? The Lies We Tell to Keep Moving Forward Without Feeling*, 40. CONN. L. REV. 1035, 1041 (2008).

34. See generally Mari J. Matsuda, *Looking to the Bottom: Critical Legal Studies and Reparations*, 22 HARV. C.R.-C.L.L. REV. 323 (1987).

Matsuda theorizes “that those who have experienced discrimination speak with a special voice to which we should listen,”³⁵ and that the legal concept of reparations is generated from this act of listening to the bottom.³⁶

In order to do so, Matsuda first defines groups at “the bottom” as those at the base of the “socioeconomic pile” who have collectively faced discrimination and other social or political wrongs.³⁷ Because these groups have been wronged, they have “seen and felt the falsity of the liberal promise,” experiences that informs their distinct perspectives on legality and justice.³⁸ As a result, according to this framework, a full analysis of the discrimination or suffering of “the bottom” must take into account the grievances, desires, and dreams of those at the bottom themselves. For any remedy or legal construct to effectively address the wrongs done and create a sustainable way forward, Matsuda insists that we listen to the experiences of those at the bottom. Any solution that ignores the voices of those most historically affected, would be ineffective, fall short of full repair, or even actively harm.

An examination of the history of Hawai‘i, including the overthrow of the Hawaiian Kingdom, demonstrates that Hawaiian people are the group to whom we must listen.³⁹ In addition, “looking to the bottom” demands that listeners take into account the cultural concept of aloha ‘āina, or “love of the land,” which informs the Kānaka legal perspective on justice. Finally, understanding the importance of this cultural concept strengthens the connection between land-based movements—including the protests on Mauna Kea—and the call for reparations.

A. A History of Overthrow, Annexation, and Loss

The “bottom” perspective of Kānaka Maoli is informed by their collective experiences of the overthrow, annexation, and loss of sovereignty and land.⁴⁰ Land, or ‘āina, has been central to Hawaiian culture ever since the arrival of Polynesian voyagers to the islands some 1500 years ago.⁴¹ Amid verdant cliffs, freshwater springs, and a land and sea teeming with abundant resources, the Hawaiian people established what would become a communal, agrarian, self-sufficient society under a complex and highly organized system of chiefly rule. Much of this system was tied to the traditional value of aloha ‘āina, by which Kānaka Maoli see themselves as

35. *Id.* at 324.

36. *Id.* at 362.

37. *Id.* at 379.

38. *Id.* at 324.

39. *See generally id.* at 368-99 (analyzing the Hawaiian sovereignty movement through her lens of “looking to the bottom”).

40. *See id.*

41. *See e.g.*, McGregor & MacKenzie, *supra* note 2. For the classic history of the Hawaiian people, see RALPH S. KUYKENDALL, THE HISTORY OF HAWAI‘I (1945).

stewards of the natural environment in a genealogical and mutually responsible relationship with the land.⁴²

First contact with Westerners in 1778 was costly for Hawaiians. Europeans brought diseases that ravaged the local population⁴³ and Western belief systems that gradually eroded Hawaiian culture. In many ways, Kānaka Maoli deftly adapted to these changes, establishing a Hawaiian-led, European-style constitutional monarchy that major foreign powers recognized, nurturing an engaged and highly literate population.⁴⁴ Yet, Westerners still consolidated power, using their prominent government positions to force the implementation of new land laws, known as The Great Mahele.⁴⁵ These laws took much of the land out of the hands of Kānaka Maoli and placed them into the possession of haoles, or white foreigners.⁴⁶ This development allowed Westerners to seize complete economic, political, and cultural dominance in the islands and dealt a brutal blow to the indigenous way of life predicated on a deep connection with the land.⁴⁷

Despite general support for the monarchy from Kānaka Maoli and other citizens, the white oligarchy grew resentful of the Hawaiian rulers. Backed by the might of the United States military, these businessmen staged a coup in 1893.⁴⁸ The United States government supported the overthrow and saw it as an opportunity for annexation and territorial gain.⁴⁹ Ignoring the illegality of the overthrow⁵⁰ and the general residential support for the monarchy, the United States government went ahead with seizing the islands. It officially

42. See Ellen-Rae Cachola, Tina Grandinetti & Aiko Yamashiro, *Demilitarizing Hawai'i's Multiethnic Solidarity: Decolonizing Settler Histories and Learning Our Responsibilities to 'Āina*, 5 CRITICAL ETHNIC STUD. 68, 69 (2019); Christine Hitt, *How the Conflict Over the Thirty Meter Telescope Has Reawakened a More-Than-Century-Old Battle*, HONOLULU MAG. (Dec. 27, 2019), <http://www.honoluluomagazine.com/Honolulu-Magazine/February-2020/How-the-Conflict-Over-the-Thirty-Meter-Telescope-Has-Reawakened-a-More-Than-Century-Old-Battle> [https://perma.cc/SA5R-F68U]; McGregor & MacKenzie, *supra* note 2.

43. E.g., Glen Grant & Dennis Ogawa, *Living Proof: Is Hawaii the Answer?*, 530 ANNALS AM. ACADEMY POLI. & SOC. SCI. 137, 141-46 (1993).

44. See *id.*

45. Osorio, J. K. (2002). *Dismembering Lāhui: A History of the Hawaiian Nation to 1887*. Honolulu: University of Hawai'i Press.

46. Early foreigners, especially white Europeans, were referred to by the Hawaiian-language term "haole," meaning "foreigner." The term is still commonly used in Hawai'i to refer to someone who is white. The term is often not derogatory, although it can be used in a derogatory fashion. See Teves, *supra* note 2, at 2 n.2.

47. See generally McGregor & MacKenzie, *supra* note 2, at 432 (describing the consequences of the Great Mahele).

48. E.g., McGregor & MacKenzie, *supra* note 2, at 36.

49. The United States minister for Hawai'i, John L. Stevens, wrote, "The Hawaiian pear is now fully ripe, and this is the golden hour for the United States to pick it." Matsuda, *supra* note 34, at 370.

50. For a more detailed overview of why the overthrow and annexation was illegal under international law, see Jennifer M.L. Chock, *One Hundred Years of Illegitimacy: International Legal Analysis of the Illegal Overthrow of the Hawaiian Monarchy, Hawai'i's Annexation, and Possible Reparations*, 17. U. HAW. L. REV. 463, 484-86 (1995).

claimed annexation, incorporating Hawai‘i as a territory⁵¹ and granting Hawai‘i statehood in 1947. Thus ended sovereign rule by the Kānaka Maoli of their own islands. Within some two hundred years after first contact with Europeans, Hawaiians witnessed their population decimated and their sovereignty and beloved land taken from them.⁵²

This history of dispossession and loss generates “continuing group damage” that Matsuda points to in order to identify Hawaiians as “the bottom” perspective.⁵³ Native Hawaiians remain a minority in their homelands, making up six percent of the population (21 percent including those who identify as part-Hawaiian).⁵⁴ Loss of land and a history of marginalization have left Hawaiians behind in terms of socioeconomic opportunity. They suffer disproportionately high rates of poverty, homelessness, unemployment, incarceration, infant death, and mental and physical illness compared to the rest of the state’s population, particularly compared to residents of Asian descent.⁵⁵

Moreover, despite the State’s public trust mandate, land once held in trust by the Kingdom of Hawai‘i for the benefit of the Hawaiian people has been steadily taken for military and agricultural purposes, thus remaining largely out of the hands of Kānaka Maoli.⁵⁶ Land that does remain in trust for the people is of second-class quality: often rocky, infertile, or poorly irrigated.⁵⁷ The legacy of Western colonialism and imperialism continues to cast its long shadow over the islands.⁵⁸

51. *E.g.*, McGregor & MacKenzie, *supra* note 2, at 22, 41.

52. Historian Tom Coffman describes the post-statehood Kānaka Maoli as disappointed and disillusioned, having “found themselves on a distant, dark hillside, conversing with ancestral ghosts. They were the remains of a vibrant, indigenous nation that had been taken away.” McGregor & MacKenzie, *supra* note 2, at 22.

53. Matsuda, *supra* note 34, at 377.

54. Sarah Kehaulani Goo, *Native Hawaiian Population Makes a Comeback*, PEW RESEARCH CTR. (Apr. 2, 2015), <https://www.pewresearch.org/fact-tank/2015/04/06/native-hawaiian-population> [<https://perma.cc/DR4D-GQCQ>].

55. *See, e.g.*, Matsuda, *supra* note 34, at 377; McGregor & MacKenzie, *supra* note 2, at 551; Haunani-Kay Trask, *Settlers of Color and “Immigrant” Hegemony: “Locals” in Hawai‘i*, 26 AM. J. 1 (2000). For a general overview of the data on measures of Native Hawaiian health, see Noreen Mokuau et al., *Challenges and Promise of Health Equity for Native Hawaiians*, NAT’L ACAD. MED. (2016), <https://nam.edu/wp-content/uploads/2016/10/Challenges-and-Promise-of-Health-Equity-for-Native-Hawaiians.pdf> [<https://perma.cc/FLB2-835C>].

56. Matsuda, *supra* note 34, at 371. *See also* DEP’T OF THE INTERIOR & DEP’T OF JUSTICE, FROM MAUKA TO MAKAI: THE RIVER OF JUSTICE MUST FLOW FREELY: REPORT ON THE RECONCILIATION PROCESS BETWEEN THE FEDERAL GOVERNMENT AND NATIVE HAWAIIANS 1, 23-25, 30-40 (Oct. 23, 2000) (offering an overview of the Great Mahele and the mechanisms of the post-statehood ceded public trust lands and Hawaiian Home Lands).

57. *Id.*

58. I’m heartened by the words of former U.S. Senator and Japanese-American Spark M. Matsunaga, who outlined the historic disadvantages faced by Native Hawaiians at a Senate Committee hearing. He also drew upon the Asian immigrant experience to demonstrate solidarity and profound empathy for the Hawaiian experience. “When I was a boy, growing up on the Hawaiian Island of Kauai, my father used to quote to me an[] old Japanese proverb: ‘Kuro Ga Atta Fukai Jensei Ga Wakaru,’ which means ‘Understanding of deep human values cometh only through suffering.’ It is a phrase which comes to mind not only when I think of my father, but when I recall the suffering of the native Hawaiian in his

B. Hawaiian Reparations as Looking To The Bottom

Hawaiian movements for reparations can be thus seen as a legal act and means of achieving justice that arises out of an informed perspective through “looking to the bottom.” Listening to groups that have been most marginalized means listening to their claims, as Matsuda summarizes:

Native Hawaiians seek reparations for the overthrow of the Hawaiian government and loss of land. They request a formal recognition of the illegal destruction of Hawaiian sovereignty and an apology from the United States. (footnote omitted) They also seek resumption of Hawaiian rule, return of at least part of the lands presently held by the federal and state governments, and monetary compensation.⁵⁹

While potentially involving individual compensation and an apology, reparations, as called for by Kānaka Maoli movements, encompass a broader process of repairing, healing, and restoring a people and a land who have suffered a deep historical wrong and resulting intergenerational trauma.⁶⁰

As a legal concept, reparations typically focus on the goals of deterrence and retribution, as seen in the context of international law.⁶¹ However, Matsuda emphasizes that reparations aimed at those at the bottom should help to realize broader goals.⁶² Reparations for those at the bottom also recognize the personhood of victims, acknowledge their deprivation and entitlement for compensation, and begin to address the substantive barriers to true liberty.⁶³ In this way, listening to demands for reparations is a powerful and essential part of looking to the bottom.

Mauna Kea’s place within the history of the Hawaiian fight for reparations also emphasizes the significance of aloha ‘āina in the reparations movement. Aloha ‘āina, as defined by Kānaka Maoli activist and scholar Davianna McGregor, means to “love and protect our land, love and protect our nation, and our sovereignty as a people, and also connect with our

own land.” *Oversight of Native Hawaiian Education: Hearing Before the S. Committee on Indian Affairs*, 98th Cong. 2 (1984) (statement of Sen. Spark M. Matsunaga).

59. Matsuda, *supra* note 34, at 371-72.

60. For studies offering more detailed support for the Hawaiian claim for reparations, see Chock, *supra* note 50; McGregor & MacKenzie, *supra* note 2, at 502-53; and NATIVE HAWAIIANS STUDY COMM’N, U.S. DEP’T OF THE INTERIOR, REPORT ON THE CULTURE, NEEDS AND CONCERNS OF NATIVE HAWAIIANS (MINORITY REPORT) (1983).

61. The United Nations outlines five conditions that must be met for full reparations: 1) restitution, 2) compensation, 3) rehabilitation, 4) satisfaction, and 5) guarantees of non-repetition. G.A. Res. 60/147, § IX (Dec. 16, 2005). Importantly, current discussions of reparations owe a deep debt to the work of Black scholars and activists, for example BORIS BITTKER, *THE CASE FOR BLACK REPARATIONS* (1973); and Ta-Nehisi Coates, *The Case for Reparations*, ATLANTIC (June 2014), <https://www.theatlantic.com/magazine/archive/2014/06/the-case-for-reparations/361631> [<https://perma.cc/QF62-FHKN>]. For an introductory overview of reparations in the context of Black Americans’ claims and international law, see *Reparations Now Toolkit*, MOVEMENT FOR BLACK LIVES (2020), <https://m4bl.org/wp-content/uploads/2020/05/Reparations-Now-Toolkit-FINAL.pdf> [<https://perma.cc/84RZ-CGQQ>].

62. Matsuda, *supra* note 34, at 385-86.

63. *Id.* at 390-91.

spiritual natural life forces.”⁶⁴ In fact, the reparations movement is also often identified as the Aloha ‘Āina movement.⁶⁵ As in previous protests,⁶⁶ the activists on Mauna Kea fight for a conception of sovereignty that is deeply tied to stewardship of the land. They fight for a return to indigenous ways of being. They fight for recognition of what is sacred and beloved in Hawaiian culture. They fight for Hawaiian decision-making power that respects the natural environment, and for a future in which economic growth does not come at the expense of the Hawaiian people or the dignity of the land itself.

The Aloha ‘Āina rally at the State Capitol, illustrated the application of these broader concepts in Kānaka-led reparation movements. The rally featured teach-ins not only on Mauna Kea but also on topics like food sovereignty, climate change, and deincarceration.⁶⁷ The rally, like the concept of looking to the bottom, contextualizes the movement to protect Mauna Kea as about more than one telescope. Instead, it situates the activism within a larger framework of reparations.

III. LOOKING TO THE MAUNA: IMPLICATIONS FOR ASIANS IN HAWAI‘I

[T]he only way to accurately theorize one’s place is by acknowledging that this place has been stolen.⁶⁸

Karen J. Leong & Myla Vicenti Carpio

My family’s story, like that of many other Asian families in Hawai‘i, has always been circumscribed by the geography of these islands—the red earth plantations where my great-great-grandparents toiled, the miles of pineapple fields where my grandfather dug his hands into the soil, the Ka Iwi coastline that yielded up fish to my father, and the misty Mānoa valley where I grew up. But in writing this Article, I was moved by an assertion by scholar Yu-Ting Huang: for Asians who have found home and community in Hawai‘i, our “place making” cannot be done “without addressing the others’ prior loss.”⁶⁹ If Asians in Hawai‘i care about looking to the bottom, we must

64. Matsuda, *supra* note 34, at 390-91.

65. *Id.*

66. In this light, the movement to protect Mauna Kea is a continuation of Hawaiian efforts for reparations. Many see activism on Mauna Kea as part of the Hawaiian push for reparations that surged in the 1970s during the Hawaiian renaissance. Beginning with the Kalama Valley eviction protests, this momentum continued through the Protect Kaho‘olawe movement, the Waiāhole-Waikāne eviction protests, and the Hilo Airport occupation. Hitt, *supra* note 42; Hofschneider, *supra* note 15; McGregor & MacKenzie, *supra* note 2, at 502-53. Members of the *kia‘i* have drawn this line to previous protests. As, Native Hawaiian poet Jamaica Osorio said on the summit, “Resistance is a Hawaiian tradition!” Hofschneider, *supra* note 15. Kānaka Maoli scholar and activist Davianna McGregor has similarly expressed recognition of this connection, saying, “I see [Mauna Kea] as a continuation. I think many do . . . It’s like our next generation now is building upon lessons to take it to another level.” Hitt, *supra* note 42. The Mauna Kea protests have given life to other acts of resistance, including protests to block construction of a \$32 million sports complex in Waimānalo and of a wind farm in Kahuku and Kalaeloa. Hitt, *supra* note 42.

67. HAWAI‘I RISING, <https://www.hawaiiirising.org/event>.

68. Yu-Ting Huang, *Writing Settlement: Locating Asian-Indigenous Relations in the Pacific*, 4 VERGE: STUDIES IN GLOB. ASIAs 25, 28 (2018).

69. *Id.* at 26.

listen to Native Hawaiian voices. If we listen to Native Hawaiian voices, we must see Mauna Kea as part of a call for reparations. And we must understand our role in answering this call.

Asians are relevant to this conversation because looking to the bottom means acknowledging Kānaka Maoli perspectives and thus accepting, as Matsuda says, that

[a]ny non-native resident of Hawaii . . . benefits from the loss of Hawaiian sovereignty and the demise of the Hawaiian land ownership. If the Hawaiians had not lost their land, others would not be living on it. If the Hawaiians had not been pushed to the bottom of the socioeconomic pile, non-natives would not hold as many positions of power and influence.

This acknowledgement is especially pertinent to those of Asian descent in Hawai‘i.⁷⁰ Despite facing racial oppression and hardships⁷¹ and not being the main perpetrator of the dispossession of the indigenous people, Asians have had more opportunities than Hawaiians to ascend economically, politically, and culturally in Hawai‘i. These opportunities have come—even if indirectly—at Hawaiians’ expense.

The plantation economy that Asian settlers found upon their arrival to the islands was based on a race hierarchy, creating early structural impediments to Asian-Hawaiian solidarity.⁷² But this hierarchy also

70. The theoretical framework of Asian settler colonialism offers one of the clearest explanations of Asian opportunity at Hawaiian expense in the island. This framework was first used by Hawaiian scholar Haunani-Kay Trask to articulate the mechanisms by which Asians in Hawai‘i have profited, benefited, and risen to power in the islands through complicity with a United States imperialism that dispossessed the Kānaka Maoli of their land and culture. Trask, *supra* note 55. For general overviews of Asian settler colonialism, particularly in the context of Hawai‘i, see CANDACE FUJIKANE & JONATHAN OKAMURA, INTRODUCTION TO ASIAN SETTLER COLONIALISM IN THE U.S. COLONY OF HAWAII, UNIVERSITY OF HAWAII PRESS, AT 7 (2008); Dean Itsuji Saranillio, *Haunani-Kay Trask and Settler Colonial and Relational Critique: Alternatives to Binary Analyses of Power*, 4 VERGE: STUDIES IN GLOB. ASIANS 36, 37 (2018); *see generally* Trask, *supra* note 55.

71. Importantly, the framework of Asian settler colonialism does not discount the struggles that Asian immigrants, including my ancestors, faced upon arrival to the islands or their courage in overcoming those difficulties. Nor does it erase the oppression that Asians endured under the structures of white supremacy. Rather, the framework of Asian settler colonialism complicates simplified narratives by demonstrating that even as American colonialism set terms that forced marginalized groups into competition for power, as on the plantation, Asian success in that competition has enforced those terms at the expense of the Kānaka Maoli who came before us. As Candace Fujikane explains, “early Asian settlers were both active agents in the making of their own histories and unwitting recruits swept into the service of empire.” Yet Fujikane emphasizes that this recognition of Hawaiian dispossession and Asian complicity does not diminish Asian sacrifice but is necessary for a fuller understanding of the story of our Asian ancestors. She writes, “Honoring the struggles of those who came before us . . . also means resisting the impulse to claim only their histories of oppression and resistance.” FUJIKANE, *supra* note 70, at 7.

72. *See, e.g.*, Moon-Kie Jung, *Different Racisms and the Differences They Make: Race and “Asian Workers” of Prewar Hawai‘i*, 28 CRITICAL SOC. 77, 78-81 (2002) (describing the racial hierarchy on the plantations). Jung points out that Filipino and Japanese workers saw themselves as distinct groups, not generalizable as “Asian,” but the point still remains that groups we now consider “Asian” still held higher places in the plantation’s racial hierarchy, above Native Hawaiians. *See also* William J. Puetter, *C.L.E.A.R. Guide to Hawai‘i Labor History*, CTR. FOR LABOR EDUC. AND RESEARCH, UNIV. HAW.,

privileged Asians over other groups. For example, Japanese and Filipino workers, unlike Native Hawaiians, were allowed to take on more “skilled” and supervisory positions on the plantation, thus earning higher wages that enabled their eventual departure for more urban areas.⁷³

In addition, Asian immigration to Hawai‘i changed the demographics of the island at the expense of the Kānaka Maoli. Even as the Hawaiian population declined due to Western colonization, by the mid- 20th century, Asians made up a majority of the population.⁷⁴ They gained enough votes to dominate the legislature and propel the Democratic Party to power, using their political force to back the successful campaign for statehood, despite opposition from many Hawaiians.⁷⁵ Today, Asian economic, political, and cultural dominance, particularly that of Japanese descendants, continues in Hawai‘i.⁷⁶ Asians alone make up a majority of the population at 38 percent⁷⁷ and constituted 65 percent of the state’s legislature in 2005.⁷⁸

When it comes to homeownership, the literal possession of the land so important to the indigenous worldview, Asian rates of homeownership vastly outstrip that of Native Hawaiians. A recent survey found that while several Asian groups in Hawai‘i have by far have the highest rates of homeownership—with Okinawans at 77.3 percent, Japanese at 73.6 percent and Chinese at 64.1 percent—Hawaiians, on the other hand, only own homes at a rate of 55.7 percent. Hawaiians own homes at a lower rate than the average of *all* groups in the islands combined.⁷⁹

Looking to the bottom, requires acknowledging that Asian ascension is intertwined with the systematic dispossession and socioeconomic

https://www.hawaii.edu/uho/clear/home/pdf/CLEAR_Hawaii_Labor_Hist_Pamphlet_2018.pdf [<https://perma.cc/PY7Q-GSXT>] (accessed March 6, 2020).

73. By 1932, the Chinese had entirely left the plantations, going on to establish themselves as part of the rising commercial class and starting businesses in areas like Honolulu. Puette, *supra* note 72. Similarly, the Japanese increasingly left the plantation economy to make their living as petty bourgeoisie, skilled laborers, and independent farmers. Jung, *supra* note 72, at 86.

74. In 1950, Japanese made up 37 percent of the population with Japanese, Chinese, Filipinos, and Koreans making up a combined 57 percent. At the time, Hawaiians only made up a mere 17 percent of the population. OFFICE OF HAWAIIAN AFFAIRS, THE POPULATION OF HAWAI‘I BY RACE/ETHNICITY: U.S. CENSUS 1900-2010, <http://www.ohadatabook.com/T01-03-11u.pdf> [<https://perma.cc/SDW5-ZBAR>] (accessed March 6, 2020).

75. For an analysis of why Asians in Hawai‘i so strongly supported statehood, see Sarah Miller-Davenport, *What Hawaii’s Statehood Says About Inclusion in America*, Wash. Post (Aug. 16, 2019) <https://www.washingtonpost.com/outlook/2019/08/16/what-hawaiiis-statehood-says-about-inclusion-america> [<https://perma.cc/934U-J4MS>]; and Trask, *supra* note 55, at 2 (2000) (“Politically, the vehicle for Asian ascendancy is statehood.”).

76. See generally Trask, *supra* note 55 (describing Asian dominance in Hawai‘i).

77. E.g., Goo, *supra* note 54.

78. Lisa King, *Competition, Complicity, and (Potential) Alliance: Native Hawaiian and Asian Immigrant Narratives at the Bishop Museum*, 41 C. LITERATURE 43, 56 (2014).

79. RESEARCH AND ECON. ANALYSIS DIV., HAW. DEP’T OF BUS., ECON. DEV. AND TOURISM, DEMOGRAPHIC, SOCIAL, ECONOMIC, AND HOUSING CHARACTERISTICS FOR SELECTED RACE GROUPS IN HAWAII 1, 14 (2018), http://files.hawaii.gov/dbedt/economic/reports/SelectedRacesCharacteristics_HawaiiReport.pdf [<https://perma.cc/B93A-QQZB>].

disenfranchisement of Hawaiians. Current Asian attitudes towards the TMT demonstrate this ongoing trend. A recent poll shows that Asians overwhelmingly *support* the construction of the TMT, with 82 percent of Japanese, 81 percent of Chinese, and 56 percent of Filipinos residents expressing their support.⁸⁰

Looking to the bottom also suggests that Asians have a role to play in the reparative aspects of the Mauna Kea movement. Understanding the history of Asians in Hawai‘i from the perspective of the “bottom” group demonstrates that Asians in Hawai‘i have a role to play in supporting the *kia‘i* on the summit.⁸¹ Rather than staying silent or joining the chorus of voices—including the voices of prominent local Asian officials⁸²—opposing the guardians of the mountain, there could be another way for the Asian community in Hawai‘i to relate to the movement, one that is rooted in love and memory.

IV. HA ‘INA ‘IA MAI ANA KA PUANA⁸³: LOVE AND MEMORY

[Activism] does not mean we erase our differences for the promise of some willfully ignorant peace, or try to calculate and equalize our rights or our trauma. Activism means we are committed to learning about and honoring our connections. The powerful ‘āina, kai, and kānaka of Hawai‘i have fed and cared for my family and loved ones. I am indebted to you. When I fight for pono futures for Hawai‘i, I fight for a better dream for everyone I love. Because of you, I am. Activism is love and commitment over generations of memory.⁸⁴

Aiko Yamashiro

If Mauna Kea is about reparations, and Asians are not the primary perpetrators of the overthrow and annexation of the Hawaiian Kingdom, then where does the obligation for Asian support for Mauna Kea arise? I suggest that one way to understand this obligation could be through the concepts of love and memory. Love is why we fight, and memory allows us to recognize and redress the wrongs of the past. While “love” and “memory” seem like strange legalisms to mesh with the Western legal tradition, both echo Matsuda’s understanding of “looking to the bottom.” Together, these ideas suggest how we might incorporate culturally-informed concepts to create a

80. See Blair, *supra* note 32.

81. Literature on Asian settler colonialism more clearly outlines how Asians’ settler history in Hawai‘i gives rise to an obligation. See Cachola, Grandinetti & Yamashiro, *supra* note 42; FUJIKANE, *supra* note 70; Saranillio, *supra* note 70; Trask, *supra* note 55.

82. See, e.g., sources cited *supra* notes 16-17 & 23.

83. A traditional line sung toward the end of many Hawaiian songs meaning “Let the refrain be sung” or “Let the story be told.”

84. Aiko Yamashiro, *Writing Decolonial Poetry for Ea*, KE KAUPU HEHI ALE, <https://hehiale.wordpress.com/2016/07/11/writing-decolonial-poetry-for-ea> [https://perma.cc/AT4K-9MGF] (March 6, 2020).

broader, more inclusive legal framework that better repairs wrongs and carves a path for the future.

In addition, looking to the bottom reveals an understanding of justice that is less time-bound than in the Western legal tradition. Because group damage continues to arise out of past harms, “memory” is central to bottom-informed remedies like reparations. While critics argue that reparations are an illegitimate remedy because of a “lack of sufficient connection between past wrong and present claim,”⁸⁵ culturally-informed values of love and memory suggest that the past is not so easily relegated to the past, and that our history lives among us in the present day.

For Asians, the concept of love and memory as relating to reparations might be especially powerful, given that Japanese-American World War II internees were the recipients of one of the few successful campaigns for reparations in the United States.⁸⁶ It’s true that this form of reparations only benefited one group of Asians, Japanese survivors of the internment camps, and the Asian community in Hawai‘i is not monolithic. (While Japanese descendants are one of the largest Asian ethnic groups in Hawai‘i, Filipinos make up a larger share, with Chinese descendants making up the third-largest group.⁸⁷) However, the extraordinarily successful story of Japanese reparations is still instructive: Through the 1988 Civil Liberties Act and subsequent legislation, the United States government formally apologized for internment and pledged \$1.6 billion to the more than 80,000 survivors, including those interned in Hawai‘i.⁸⁸ The bill also provides for funding to Japanese cultural centers and placement of landmarks at all sites of internment.⁸⁹

Survivors of internment and their Japanese-American kin largely spearheaded redress efforts, a decade-long campaign rooted in love for their community and hope for healing and change. Matsuda links the Japanese-American call for reparations to that of the Hawaiian movement: both are rooted in the voices of a marginalized group that has suffered from a historical wrong its legacy, and both demand or demanded redress, beyond monetary compensation, in the form of recognition, remembrance, and remedy.⁹⁰

85. Matsuda, *supra* note 34, at 374.

86. See *Reparations Now Toolkit*, *supra* note 61, at 58.

87. 2018 *State Fact Sheet: Hawai‘i*, AAPI DATA, <http://aapidata.com/wp-content/uploads/2018/05/HI-2018.pdf> [https://perma.cc/47JQ-8RR8] (accessed March 3, 2022).

88. ROGER DANIELS, THE JAPANESE AMERICAN CASES: THE RULE OF LAW IN A TIME OF WAR 160-63 (2013); Michael Isikoff, *Delayed Reparations and an Apology*, WASH. POST (Oct. 10, 1990), <https://www.washingtonpost.com/archive/politics/1990/10/10/delayed-reparations-and-an-apology/bed88529-ba5d-41de-a913-48362ec779bc> [https://perma.cc/DLB8-NR2P].

89. See *Reparations Now Toolkit*, *supra* note 61, at 58.

90. One survivor of Japanese internment, Arthur Morimitsu, was quoted as saying, “Frankly, a lot of us were not looking for monetary (payments) . . . We wanted recognition that we were loyal, that internment loyal American citizens was wrong.” Flynn McRoberts, *U.S. Offers Apology to Heal the Hurt of Japanese Americans’ Internment*, CHI. TRIB. (Aug. 5, 1988), <https://web.archive.org/web/20210223194318/https://www.chicagotribune.com/news/ct-xpm-1988-08->

Statements made at the ceremony for the passage of the 1988 act may ring true for those of us looking to the bottom in Hawai‘i. Attorney General Dick Thornburgh said, “In forcing us to reexamine our history, you have made us only stronger and more proud,”⁹¹ while Senator Daniel Inouye, himself a Japanese-American from Hawai‘i, said, “We demonstrated to the world that we are a strong people—strong enough to admit our wrongs.”⁹² Both exemplify the legalisms of love and memory and show that commitments to acknowledge past histories carry forward to the present.

The parallel with the Hawaiian movement, including the activism on Mauna Kea, is clear. In fact, many note that the campaign for reparations for Japanese internment inspired the campaign that culminated in Congress’s 1993 Apology Resolution for the overthrow of the Hawaiian monarchy.⁹³ This parallel asks Asians in Hawai‘i to look at historical harms with clear eyes so that we might take the necessary steps to undo those harms. What greater act of love for one’s community, people, and home could there be? And as a Japanese-American, I ask myself whether I will sit by silently while others yearn and agitate for the same reparations that many in my community received?

Love and memory also foreground the importance that many Asians in the islands place on family, history, and community. Like me, many, Asians in Hawai‘i grew up in multi-generational homes, enmeshed in a sprawling yet close-knit network. During the campaign for internment redress, organizers referenced a proverb well known in the Japanese community: “Kodomo no tame ni,” or “for the sake of the children.”⁹⁴ We bring *ozoni* to

05-8801200690-story.html [https://perma.cc/FFG2-44VT]. Survivor John Tateishi was quoted as similarly saying, “[I]t’s the legacy we’re handing down to them and to the nation to say that, ‘You can make this mistake, but you also have to correct it—and by correcting it, hopefully not repeat it again.’” Bilal Qureshi, *From Wrong To Right: A U.S. Apology for Japanese Internment*, NAT’L PUB. RADIO (Aug. 9, 2013, 4:24 PM), <https://www.npr.org/sections/codeswitch/2013/08/09/210138278/japanese-internment-redress> [https://perma.cc/YG9R-477C].

91. Isikoff, *supra* note 88.

92. Ronald Ostrow, *First 9 Japanese WWII Internees Get Reparations*, L.A. TIMES (Oct. 10, 1990), <https://www.latimes.com/archives/la-xpm-1990-10-10-mn-1961-story.html> [https://perma.cc/WZL2-ECLD].

93. In fact, many note that the campaign for reparations for Japanese internment inspired the campaign that culminated in Congress’s 1993 Apology Resolution for the overthrow of the Hawaiian monarchy. E.g., Massoud Hayoun, *Japanese Americans’ Fight for Post-Internment Reparations Offers a Blueprint for Tackling Inequality in the Trump Era*, PAC. STANDARD (Aug. 1, 2018), <https://psmag.com/social-justice/japanese-americans-fight-for-post-internment-reparations-offers-a-blueprint-for-fighting-inequality-in-the-trump-era> [https://perma.cc/7C3F-JVR7].

94. Qureshi, *supra* note 90; see, e.g., DENNIS M. OGAWA, *KODOMO NO TAME NI—FOR THE SAKE OF THE CHILDREN: THE JAPANESE AMERICAN EXPERIENCE IN HAWAI‘I* (1979); *Kodomo No Tame Ni: For the Sake of the Children*, HAW. FARMERS DAUGHTER (Mar. 30, 2015), <https://hawaiifarmersdaughter.com/2015/03/30/kodomo-no-tame-ni-for-the-sake-of-the-children> [https://perma.cc/879P-785E].

our neighbors on New Year's Day.⁹⁵ We look after the children of our friends like our own. We offer up our homes, our food, our advice freely through the "coconut wireless." Reparations, with its call to honor the past and make right a larger wrong, can be seen as an extension of this ethos.

Still, in the case of Mauna Kea, there remains the question of how best to support the movement. In particular, Kānaka Maoli sentiment on the issue is not uniform. Overall Hawaiian support for the TMT is somewhat split, with younger Hawaiians generally opposing it.⁹⁶ Yet the fact that not every Hawaiian supports the movement does not necessarily mean Asians should ignore or oppose the activism on the mountain. Rather, as Matsuda notes, "Deference to victims respects their rights to personhood and self-determination."⁹⁷ Looking to the bottom not only means listening to Hawaiian voices and understanding Mauna Kea as a call for reparations, but it also means honoring the way the group at the bottom wishes to live out their own conception of love and memory.

Reparations offers the possibility of transformation still unimaginable to us: a land healed, a people made whole. As Matsuda writes,

[R]eparations is at its heart transformative. It recognizes the crimes of the powerful against the powerless. It condemns exploitation and adopts a vision of a more just world. The reparations concept has the aspirational, affirming, idealistic attraction of rights rhetoric, without the weak backbone.⁹⁸

And there may be room for Asians in this possible future.⁹⁹ Kānaka Maoli scholar Noelani Goodyear-Ka'ōpua has explained how non-Hawaiian residents can practice looking to the bottom practicing aloha 'āina and joining in land-based work.¹⁰⁰ Candace Fujikane similarly expresses gratitude for the way Hawaiians "opened up a space" for non-Hawaiians to "join them in struggle based on their shared affinities, their shared commitments to aloha 'āina, preservation of celebrated and sacred places,

95. *Ozoni* is a traditional Japanese mochi soup frequently enjoyed by Hawai'i residents, including my family, on New Year's Day. See *Ozoni (Japanese New Year Mochi Soup)*, ONOLICIOUS HAWAII (Jan. 5, 2022) <https://onolicioushawaii.com/ozoni/> [<https://perma.cc/K5HR-5TGQ>].

96. See Blair, *supra* note 32.

97. Matsuda, *supra* note 34, at 387.

98. *Id.* at 394.

99. In an essay, Matsuda recalls an exchange she had with Haunani Kay-Trask, who writes about Asian settlers in Hawai'i (e.g., Trask, *supra* note 55). In the exchange, Matsuda recalls that she asked Trask "quite directly, 'If you are right that your people were illegally displaced, as I believe you are, I want to ask what that really means for people like me. Does my family have to move out of their house in Manoa?' I held my breath because I made a promise not to hide from the truth, but I really did not want to hear it. She said, 'We don't know. We are building a nation. We don't have our self-determination and so we can't determine yet what our nation will look like. But I can tell you this, I would take back the military land before I would take your house.'" Matsuda, *supra* note 33, at 1041.

100. See Candace Fujikane, *Mapping Wonder in the Māui Mo'olelo on the Mo'o'āina: Growing Aloha 'Āina Through Indigenous and Settler Affinity Activism*, 30 MARVELS & TALES (SPECIAL ISSUE) 45, 62 (2016); see also Saranillio *supra* note 70, at 39.

protection of agricultural lands, demilitarization, environmental justice, restoration, abundance, and sustainability.”¹⁰¹

We stand at a threshold. The *kia‘i*’s activism on the mountain offers us a chance to tap into our love and memory and be part of a new narrative,¹⁰² one that advocates for reparations as the most marginalized see fit. Mauna Kea offers all of us, Asians included, an opportunity to begin to do right by the land and those who have traditionally been its stewards. We don’t know what potential worlds will emerge from that choice, but Matsuda suggests what will happen should we go the other way. In discussing a vision of a future Hawai‘i that embodies *aloha ‘āina*, she writes, “Maybe we could live there. We don’t know yet . . . [I]f we never ask, we will never know, and the fires will burn around us until we are consumed.”¹⁰³ As Hawai‘i literally burns¹⁰⁴ under the pressures of environmental degradation and climate change¹⁰⁵ and those who live here face extreme economic pressure,¹⁰⁶ shouldn’t we seek a better way to be? The activism on Mauna Kea presents a point of intervention. It is a fork in the road that could steer us away from the fires and toward a better Hawai‘i, a world we imagine we can build.

Throughout writing this Article, my mind continually returned to my home, to the mist-shrouded mountains to which I awoke every day; the damp, quiet ‘ōhia lehua forests where I brought schoolchildren to learn the language of environmental stewardship; the rocky cliffs where my father taught me, as his grandfather had taught him, how to pull fish from the blue skin of the sea. I love Hawai‘i. These lands that have nurtured five

101. Fujikane, *supra* note 100, at 65.

102. See Babie, *supra* note 3, at 261 (“2015 offered all Hawaiians a choice: to stand in the way of the Native Hawaiian comeback, or to be supportive of the struggle and to become a part of a new narrative.”).

103. Matsuda, *supra* note 33, at 1042.

104. See Clay Trauernicht, *Fire Is the One Hawaii Disaster We Can Avoid*, HONOLULU CIV. BEAT (Sep. 12, 2018), <https://www.civilbeat.org/2018/09/fire-is-the-one-hawaii-disaster-we-can-avoid/> [<https://perma.cc/M2JL-RQ5R>]; Trish Kehaulani Watson, *Trish Kehaulani Watson: Hawaii Should Learn From Australia’s Wildfires*, HONOLULU CIV. BEAT (Jan. 3, 2020), <https://www.civilbeat.org/2020/01/trisha-kehaulani-watson-hawaii-should-learn-from-australias-wildfires> [<https://perma.cc/2CEN-BK2Q>].

105. See, e.g., LiAnne Yu, *The Cost of Climate Change in Hawaii*, HAW. BUS. MAG. (Sep. 6, 2018), <https://www.hawaiibusiness.com/cost-of-climate-change> [<https://perma.cc/L466-Z68R>].

106. See, e.g., HAW. APPLESEED CTR. FOR LAW AND ECON. JUSTICE, HAWAI‘I’S AFFORDABLE HOUSING CRISIS (July 2014), https://www.mauicounty.gov/DocumentCenter/View/110634/Report_HiAppleseed_AffordableHousingCrisisReport_201407?bidId= [<https://perma.cc/DP2D-VXKR>] (discussing the affordable housing shortfall in Hawai‘i and its wider ramifications on the community); Steve Petranik, *Half of Hawaii Barely Gets By*, HAW. BUS. MAG. (Feb. 1, 2019), <https://www.hawaiibusiness.com/change-report-community-economy> [<https://perma.cc/NUQ5-2LFT>] (exploring the economic mechanisms driving the trend of Hawai‘i families struggling to stay afloat financially); Jaymes Song, *High Housing Costs in Hawaii Are Spurring Brain Drain*, HONOLULU STAR-ADVERTISER (May 25, 2019), <https://www.staradvertiser.com/2019/05/25/hawaii-news/column-high-housing-costs-in-hawaii-are-spurring-brain-drain> [<https://perma.cc/6RZB-9XYH>] (demonstrating that high housing costs are the cause of the millennial brain drain and population loss).

generations of my family so that I, a Chinese-Japanese-American law graduate, might one day thrive. But I also thought of the afternoon when I emerged from visiting one of the telescopes on the Mauna Kea summit and saw Kānaka Maoli partaking in cultural practices across the red earth. I remember the sense of intruding on something sacred that was not meant for me. And I thought about how I could properly express gratitude for the place that has made a home for me, as well as gratitude for the people who are the rightful stewards of this land.

Looking to the bottom, we see that the Mauna Kea movement is part of a call for Kānaka Maoli reparations. Out of that call comes a responsibility. And so, finally, the Mauna Kea movement could be an opportunity for us, us non-Natives, us Asians, who have found our way to these islands. An opportunity to love this place better, to hear the voices of the most marginalized and truly listen. It offers us an opportunity to fight for a more ecologically stable summit, to change the current status quo in which science is falsely pitted against culture, and to find new ways of caring and understanding the mountain and our relationship to it. And maybe, just maybe, in transforming our relationship to Mauna Kea, we will begin to find ourselves, and this place, transformed as well.