I unfortunately was not able to attend the previous Board Of Regents meeting but if all goes smoothly I will attend this one. I mean no disrespect but I do not understand how a school that has allowed for land as sacred as Mauna A Wakea to be abused for the past 50 years. That mountain is very sacred to the Native Hawaiian people. It's time to stop with the mismanagement. It's time to stop allowing corporations to go up there and desecrate it. The Native people of any place should always be the first priority of that place and if they don't want something built on their land then it should not be built there.
Dear Members of the BOR and President Lassner:

I write to address article 6, concerning matters of governance, most specifically your PIG. I am here to object not to how you are governing, but that you are attempting to govern at all—and that you are doing so with an absolute refusal to listen to why it is wrong for you to be exercising your authority.

When I was a child, I used to love the Charlie Brown cartoons where, when parents and teachers speak, all the children hear is blah blah blah.

I have been reminded of this in our interactions with you. We speak and there is no indication you are listening. Last month I heard almost four solid hours of impassioned and brilliant testimony that pointed to the wrongness of the PIG—and of the TMT project. You, so far as I can tell, heard blah blah blah.

But although many of us are parents and teachers—and here I include the students speaking because I learn so much from them—you are not children, but people in power presiding over what feels like an empty charade, a sham democracy. As you establish your PIG; as you and President Lassner make and postpone discussion of your administrative rules (this is the third postponement); as you work in tandem with a state that, like the university with its made up administrative rules, is scrambling to forge and enforce false laws and rulings and jurisdictions (over 600 tickets were given in the space of one week to those driving to or parking at Pu‘uhuluhulu); you place the BOR in complicity with what playwright Alani Apio called in 2001 "a thousand little cuts to genocide." As he explained in choosing these powerful words, “Nobody executes us [Kanaka Maoli]. No one lynches us. No government enslaves our children or rapes our women. No citizenry chains us up and drags us from the backs of pickup trucks. No homicidal maniac gassing us. Just 1,000 little cuts to our self-esteem, self-identity, cultural pride - to our souls.”

But because, as one of the Board’s little cuts, you have not listened to what Kanaka Maoli and allies such as myself are saying does not mean that it does not matter to stand here today and to call upon you to stop enforcing the University and BOR’s governance over Mauna a Wākea and to leave the Mauna with those to whom it is a sacred relative, rather than real estate and a site of colonial conquest. These hours of testimony are part of a historical record, and they are part of the making of what is stronger than 1000 little cuts to genocide.

If you do not hear those of us testifying, we hear each other, and though many of us sound and are angry at the violence being done to kūpuna and—I’ll speak here for myself as an educator—are angry over the BOR and President Lassner, in the name of “governance,” subjecting kanaka students and colleagues to constant stress and threats, I believe I am in good company in saying that I am here out of love, and out of a desire to protect the Mauna, and this university from colonial and corporate violence. And even if what you are hearing is blah blah blah, we hear each other. And what we are witnessing, and what is being created—by those testifying today; by the kūpuna and other kiaʻi and allies who will remain steadfast at Puʻuhonua o Puʻuhuluhulu; by those students occupying Bachman Hall who have resolved to leave only when the TMT does; by the students and faculty creating an extension of Pu'uhuluhulu University on Bachman lawn; by the paddlers and little leaguers saying kū kiaʻi mauna; by the 1000s chanting, singing, dancing hula and jamming for the Mauna here and all around the world; by the astronomers standing for pono science—all of this is so much more powerful than your PIG, and the state and university’s 1000 little cuts to genocide.
I like to think of what is happening as thousands of what Aiko Yamashiro, a PhD candidate in English, now Executive Director of the Hawai‘i Council for the Humanities and a longtime member of Kahea, has called “baby steps toward decolonial love.” One reason I like this formulation is because it makes clear that decolonial love is not just a feeling. It is a practice. And it is a one that involves creating a future that builds upon indigenous forms of knowledge that are old, vast and deep, and that include understanding of and respect for the moon and the stars, and the interrelations of the skies, the land, the ocean, all of us.

It is not too late for those of you on the Board to show us that you are listening, to take steps rather than make cuts.

Sincerely,
Cynthia Franklin
Professor
Co-Editor, Biography: An Interdisciplinary Quarterly
Department of English
University of Hawai‘i at Mānoa

**********************************************
Cynthia Franklin
Professor
Co-Editor, Biography: An Interdisciplinary Quarterly
Department of English (KUY 224)
University of Hawai‘i
1733 Donagho Road
Honolulu, Hawai‘i 96822
cfrankli@hawaii.edu
Testimony for August 30 BOR meeting

Wendell Perry <wperry@hawaii.edu>  
To: bor.testimony@hawaii.edu  

Thu, Aug 29, 2019 at 8:57 AM

Aloha. Attached is my testimony for the August 30, 2019 BOR meeting. The testimony is complete with attachments. Other attachments will be provided via hard copy at the meeting.

Please contact me via this email if you have questions or concerns.

Peace,
Kekailoa Perry
Associate Professor
Kamakakūokalani Center for Hawaiian Studies

"If the learner believes that institutional education is all that there is to learning, then their growth as a whole person will be stunted upon completion of the institutional credential." - Nicole R. Harper.

"Until the philosophy which holds one race superior than another, is finally and permanently discredited and abandoned,... until there no longer first class and second class citizens of any nation, until the color of a man's skin is of no more significance that the color of his eyes,... until that day the dream of lasting peace, world citizenship, rule of international morality, will remain in but a fleeting illusion to be pursued, but never attained." - Robert Nester Marley

Testimony BOR August 30 [fni].pdf
6316K
Testimony Before the University of Hawai‘i Board of Regents

Objecting to the Use of Misleading or Partial Information in President Lassner’s Oral Report on Mauna Kea

and

Warning that Accreditation and Fiscal Concerns will Taint the Honorary Doctoral Degrees

August 30, 2019

I am Kekailoa Perry, Associate Professor at the Kamakakūokalani Center for Hawaiian Studies in the Hawai‘inuiākea School of Hawaiian Knowledge at the University of Hawai‘i Mānoa. My testimony today will address items II, V and VIIA of your agenda.

Item II and V – Objection to the Lack of Accountability in President Lassner’s Oral Report

The BOR’s process that allows the President to offer “oral reports” on matters concerning the students, faculty and community is irresponsible. I object to the absence of documents, videos, hyperlinks, and written reports that would provide clear and informative materials for public review and participation relative to President David Lassner’s report and the BOR public meeting archival records.

The President’s oral reports make misleading or inaccurate statements with no supporting documentation. The oral reporting allows President Lassner to maintain a dominant, biased narrative that is unverifiable and silences the voices of students, faculty, and the community who have corresponded with the President through verbal conversation, in writing and through social media, or indirectly through third party reporting. The oral reporting process also supplies the BOR with plausible deniability by not requiring a more thorough rendering and review of all relevant information.

For example, the BOR minutes for July 18, 2019 (that you are approving today) provides a three paragraph summary of the President’s report on Mauna Kea. The report is misleading and factually biased and there is no way to verify the veracity of the President’s statements because he does not provide any documented evidence that support his claims.

In the July 18 minutes, the President reported that the faculty at Kamakakūokalani Center for Hawaiian Studies called for his resignation, but he did not provide adequate context to that statement. As a result, the President’s statement is subject to value judgements based on individual preconceived notions and biases about Hawaiian Studies.

Does anyone on the BOR actually know why Hawaiian Studies called for President Lassner’s resignation? Did the BOR read the letter we sent to the President? Whether you agree with the letter or not, the information should have been included in the report for the record and as a matter of intellectual honesty and transparency. For the record, our resignation demand still stands.
In the July 18 minutes, the President reported that he respected faculty and staff and expressed concern for the safety of people on Mauna Kea. The President also denied any power to influence law enforcement and arrests. However, the President did not report that UH faculty and students issued a list of written concerns that highlighted the UH administration’s role and contribution to the Mauna Kea arrests. Conveniently, those documents were excluded from the report.

Nowhere in the BOR materials do we see the letters, documentation, or media links that would provide the full context of the President’s knowledge and interaction with the community. President Lassner’s exclusion of documentation suggests a lack of sincerity regarding his safety concerns and the traumatic impact the University’s actions have on Hawaiians and the University community.

Did the BOR actually receive and read the UH community statements presented to President Lassner? If so, why was it not part of the report? If not, how can the BOR truthfully make a reasonable and responsible decision without all the information?

Today, the President is again providing an oral report. At the time of this writing, neither the President nor the BOR have made materials available for public review. The lack of information makes me wonder:

- Will President Lassner discuss the updates on Mauna Kea? Will the President disclose that he promoted Hawai’i’i‘i‘i‘a‘kea faculty to support the TMT but withheld salary savings from our school’s programs? Will there be a full disclosure of documents available relating to this matter?

- Will President Lassner discuss the extramural and other tuition or fee funds that are financing the legal representation for UH’s support of TMT? Will any materials be made available for review by the University community and public?

- Will President Lassner report that his staff, the OGC, and Director of Office of Mauna Kea Management were told by faculty that their current rules are in violation of the State and Federal constitutions and laws? Will the President disclose that the proposed management rules are legally deficient and include procedural obstacles that were purposely inserted by his administration? If no documentation is provided, how will the BOR honestly conclude that the President’s oral report on the rules is clear and unambiguous?

- Will President Lassner disclose his administration’s legally suspect efforts to intimidate faculty and students with memos, waivers, and surveys that target only those who support Mauna Kea Protectors? Are those materials available for the BOR or public review? Does the BOR support the actions or care that they are occurring?
Will President Lassner document how he and fellow UH administrators were funded to visit Mauna Kea. Will he provide names and show how much the University spent? The President made funds available for specific individuals to travel to the Mauna. But, faculty and students supporting the protection of Mauna Kea are being unjustly targeted for their legitimate research and study which forces them to pay for travel out of their own pockets. Why do we not see the same scrutiny with other researchers on the Mauna or on other remotely accessible areas? When the President visited Mauna Kea he said that he wanted students and faculty to feel safe. Per the President’s actions, does “safe” actually mean that our Hawaiian based research, education and learning is less valuable than other research methods and therefore not worthy of support or protection by the President and University?

Or, will President Lassner’s report be accepted by the BOR with no documentation and thus no accountability? How will the BOR and community know whether the President is engaging in open and responsible dialogue if there is no documentation to confirm the information? Is this the kind of due diligence and accountability the BOR expects from its President? The BOR’s acquiescence to the President allows the BOR to claim plausible deniability regarding any misleading or non-disclosures in the President’s report. As a responsible decision making body, the BOR should find such practices unacceptable.

I do not want to believe the BOR intends to make decisions without full knowledge and access to information. But, allowing oral reports without demanding clear documentation and sources is bad practice for a research-1 university and will indicate that the BOR is breaching its fiduciary responsibility to the students, faculty, staff, and community. The BOR and our community must have reasonable and timely access to these documents so that we can all be informed and hold our decision-makers accountable.

Enclosed are memos, emails, and a draft waiver distributed by the President’s administrators via email or hard copies to Deans and faculty. I am providing these documents because (1) the President will not and (2) so that members of the BOR will know the level of illegal activity and political intimidation currently deployed by President Lassner and his administration.

Item VIIA – Accreditation and Fiscal Concerns Taint Honorary Degrees.

The BOR should improve its scant rationale and factual information outlined in President Lassner’s August 7, 2019 memo before conveying doctoral honors to former President Barak Obama and Retired General Eric Shinseki. Both men have made careers based on responsible leadership and duty. Granting them a degree without disclosing the serious accreditation flaws, Place of Hawaiian Learning failures, political patronage concerns, procedural inequities, equal protection violations and fiscal problems of this University is disingenuous to their respected careers.

More importantly, by conferring honorary degrees from this University on reputable individuals who may not know the impact their degrees can have on their personal and political life is irresponsible.
Conclusion.

For the reasons stated above, the BOR should refuse oral reports from the President and require a full disclosure of information and materials for the UH community and public to review especially when it relates to Mauna Kea. Likewise, the BOR should refrain from honoring people when the University continues to conduct itself in ways that disrespect Hawaiian cultural learning and beliefs and continues to support the breaches of state and federal laws.

Attachments.
Testimony Before the University of Hawaiʻi Board of Regents

August 30, 2019

ATTACHMENTS
I am a student at the University of Hawai‘i at (campus) ______________________ during (term/year) __________________. I freely and voluntarily decided to attend the above identified class (Class) remotely from or near Pu‘u Hulu Hulu, on the island of Hawaii while a protest related to the construction of the Thirty Meter Telescope is ongoing. (“Location”).

1. **Conditions of Conducting Research at the Location.** As a condition of attending Class at the Location, I certify that I am at least 18 years old and that after consultation with my physician regarding my personal medical needs, I am in good physical health and able to remotely attend Class from the Location.

2. **Acknowledgement of Dangers and Risks.** I understand and acknowledge that my attendance, travel to and from the Location, and day-to-day life activities at the Location have dangers and risks, including but not limited to, personal injuries, illnesses, altitude sickness, unsanitary food or water, lack of or inadequate medical services, facilities, or medication, civil unrest, political instability, detainment, arrest, criminal fines, penalties, or prosecution and/or and dangers and risks associated with political, legal, medical, social, and economic conditions; lack of privacy in accommodations; lack of cellular reception and/or electronic mail; restrictions on heat, electricity or water usage; and adverse local weather conditions; and other physical, emotional, and/or psychological injuries (collectively the “Risks”).

3. **My Responsibility.** I understand and agree that (a) I will acquire and maintain my own medical and accident insurance policy, including coverage for emergency medical evacuation, (b) the University of Hawai‘i will not be responsible for or indemnify or defend me with respect to any claims, actions, injuries, damages, and/or liabilities arising out of physical presence at the Location, (c) I will abide by all applicable laws, statutes, ordinances, and/or rules that govern the Location; (d) I will take all appropriate and available safety precautions while remotely attending Class; (e) I will carry at all times my identification and my medical insurance identity card; (f) I will continue to abide by the University of Hawai‘i’s Student Code of Conduct while at the Location.

4. **Assumption of Risks, Waiver and Release, and Indemnification.** In consideration for permission to conduct my Research at the Location, I agree to the following on behalf of myself, my heirs, executors, administrators, personal representatives, successors, and assigns:

   A. **Assumption of risk.** I assume all Risks as described above in connection with or resulting from my Class attendance at the Location.
B. **Waiver and release.** I, individually, and on behalf of my heirs, executors, administrators, personal representatives, successors, and assigns, hereby release and discharge the University of Hawai‘i, including any and all of its past, present and future Board of Regents, officers, campuses, chancellors, deans, directors, colleges, department, units, employees, subsidiaries, affiliates, predecessors, successors, successors in interest, legal representatives, employees, subsidiaries, agents, representatives, insurers, excess insurers, reinsurers, indemnitors, and assigns (hereinafter collectively the “University”) of any and all claims, demands, actions or causes of action, and rights of any kind related to, arising, growing out of, connected with or traceable either directly or indirectly to the Risks, including but not limited to any and all expenses, charges, fines, fees, penalties, taxes, damages, and/or costs, whether to my person or my property, that I incur while attending Class at the Location (“Released Claims”).

C. **Indemnify, defend, and hold harmless.** I, individually, and on behalf of my heirs, executors, administrators, personal representatives, successors, and assigns, hereby agree to indemnify, defend and hold harmless the University from and against any and all Released Claims.

5. **No Representation.** I understand and agree that the University has not made and does not make any representations or warranties whatsoever with respect to my personal safety or property while I am attending Class at the Location. I also understand that my agreement to the provisions herein is wholly voluntary, and further understand that prior to signing this Assumption of Risk, Waiver, Release and Indemnification (“Agreement”), I have the right to consult with an attorney of my choice at my own cost.

6. **Effective.** This Agreement shall commence and be in full force and effect on the date that the last party signs this Agreement.

7. **Entire Agreement.** This Agreement represents my complete understanding regarding the release of the University from responsibility and liability for my Class attendance and related travel, and supersedes any previous or contemporaneous understandings I may have had with the University on this subject, whether written or oral, and cannot be changed or amended in any way without my written concurrence.

I have read this Agreement and I understand that I am giving up substantial rights, including the right to sue. I acknowledge that I am remotely attending Class at the Location freely and voluntarily. I agree that: (a) this Agreement shall be interpreted and enforced in accordance with the laws of the State of Hawai‘i and (b) if any portion of the Agreement is deemed or held invalid, the remainder of the Agreement shall continue in full force and effect.

Signature: ____________________________ Date: __________________

Print Name: ______________________________ Version 08.06.19
Concern for UH process and educational delivery does not warrant specific language targeting ONLY students and faculty supporting the protection of Mauna Kea. No other research or educational work is listed or addressed. This is discriminatory on its face.

--------- Forwarded message -------
From: Office of the Provost <provost@hawaii.edu>
Date: Wed, Aug 21, 2019 at 1:16 PM
Subject: Important Reminders at the Start of Fall Semester

To Deans, Directors, and Krystyna and Ron:

As we begin classes next week, I want to provide additional remarks and guidance for you to share with your department chairs and faculty. As an institution of higher education we are committed to the exchange of free ideas and open dialogue and I look forward to the upcoming academic year, welcoming students and faculty back to campus.

Several weeks ago, I provided you with guidelines to assist in holding discussions regarding classes on campus for the fall semester, via distance learning, and via independent study. There have been continued inquiries from the public, the legislature and others regarding UH faculty, students, and staff on the mauna. We all have a shared goal of ensuring that all classes are delivered as scheduled. Our faculty are professionals, and they are as passionate as any faculty anywhere about student learning. The latest reminder from VP Strand is provided below.

Given the entire context, I want us to consider the following:
1. All classes are expected to be offered as articulated in the class schedule. If there are any alterations, changes must be approved. Given the continued questions and rumors, please have your department chairs check with all instructional personnel on the accuracy of the information in the schedule of classes (i.e. MYUH class availability).

2. Any travel should be approved through the established channels; travel outside of this process is considered personal.

3. In terms of graduate students who remain on the mauna, if they are also GAs, RAs or TAs, they are expected to perform their assigned duties. If they are not able to do so, then the department needs to find another individual to perform those duties.

4. Please refer to my prior email regarding the potential impact on students.

We should remember that, at this moment in time, it is more important than ever that we stay in communication, as it is possible that rumors and misinformation will be plentiful.

I have deep respect for you and our faculty and look forward to the upcoming school year. VP Straney’s message is a reminder of existing University policies. Should there be any questions regarding this message, please contact the OVCAA.

Michael S. Bruno
Provost
University of Hawai‘i at Mānoa
Honolulu, HI 96822
808-956-8447

---------- Forwarded message ----------
From: Donald Straney <dstraney@hawaii.edu>
Date: Tue, Aug 20, 2019 at 7:05 AM
Subject: Important Reminders at the Start of Fall Semester
To: councilofchancellors-l@LISTS.HAWAII.EDU, Council of Chief Academic Officers <uhccao-l@lists.hawaii.edu>, uh-cssao-l@LISTS.HAWAII.EDU Affairs Officers Chief Student <uh-cssao-l@lists.hawaii.edu>

The duty period for UH faculty began yesterday for the 2019-20 academic year. As the year begins, and in answer to recent requests for clarification, please remind your faculty and academic units of the following expectations that hold during every semester.

• With the beginning of the official duty period today, faculty must be available for all relevant department, division, college or campus activities;

• Should faculty desire to be absent from their assigned duties, they must obtain approval for either authorized travel, a leave of absence, or for faculty on 11-month appointments, authorized vacation;

• Courses need to meet at the time and location scheduled in the list of course availability for the semester. It is the responsibility of Department Chairs to ensure that these courses are meeting at their published time and place.

• Faculty should submit evidence of student participation in classes to the registrar following
standard campus practices, as required by federal financial aid regulations. In accord with those standard regulations, students who are not documented as participating in classes may lose some or even all of their federal financial aid depending on circumstances.

- Faculty supervising independent study or offering field trips as a course requirement must follow campus practices for obtaining liability waivers from students and all necessary permits for the activities involved.

- All employees of the University are subject to the Hawaii Code of Ethics (Chapter 84 of the Hawai‘i Revised Statutes), including HRS Section 84-13 which prohibits employees from using their positions to secure or grant unwarranted privileges, exemptions, advantages, or treatment, for themselves or others.

The guidance in my memorandum of 7 August may also be helpful, and continues to apply. University employees visiting Pu‘uhuluhulu for any reason other than authorized or official University business must do so without the expenditure of public or University funds, time, or resources. Faculty, staff and chairs should consult with their Deans/Directors or Vice Chancellors on their respective campuses prior to visiting Pu‘uhuluhulu for official University business.

--Don Straney
Kamakakuokalani Condemns Your Actions!

1 message

Antoinette Freitas <antoinet@hawaii.edu>       Wendell Perry <wperry@hawaii.edu>
To: David Lassner <david@hawaii.edu>                        Wed, Jul 17, 2019 at 8:21 AM
Cc: "Michale S. Bruno" <mbruno2@hawaii.edu>, Jonathan Kamakawiwo'ole Osorio <osorio@hawaii.edu>, "kchs-faculty-m." <kchs-faculty-meetings@lists.hawaii.edu>

Kamakakūokalani Center for Hawaiian Studies
Letter Condemning UH President David Lassner’s
Abuse Of Hawaiian Culture and Lands and
Calling for the President’s Resignation

July 17, 2019

President David Lassner
University of Hawai‘i System
Bachman Hall
Mānoa, O‘ahu, Hawai‘i 96822

Mr. Lassner,

The Kamakakūokalani Faculty at the University of Hawai‘i at Mānoa condemns your actions that precipitated the overt attack on Hawaiian culture, lands and people here and on Mauna Kea. Kamakakūokalani calls for your immediate resignation as President of the University of Hawai‘i System.

Open letters by faculty of the UH system have outlined your “reckless disregard for your responsibilities” and your “weaponizing” of Hawaiian concepts and identity to mask your support of the Governor and Hawai‘i County Mayor’s threats to deploy unreasonable and extreme force against faculty, students, staff and community members attempting to exercise their right to protect Mauna Kea from the TMT desecration.

Your record of abuse through the misappropriation of Hawaiian national and cultural identity shows a clear pattern of erasure whereby all legitimate concerns from the Hawaiian and protector communities are ignored or wrongly characterized as insane and criminal. You willingly support the governor, the State AGs (both Chin and Connor), the Hawai‘i Island Police Chief and the Mayor’s faulty logic to threaten violence against anyone protecting Mauna Kea. You disregard the concerns of faculty, staff and students advocating for the protection of Mauna Kea and use time limits and scheduling to stifle debate. You and your legal staff consistently patronize, belittle and disregard our efforts to improve the Mauna Kea management rules to

https://mail.google.com/mail/u/0?ik=4369889ebf&view=pt&search...ead-f%3A1639330852446735442&simpi=msg-f%3A1639330852446735442
ensure that the constitutional rights of native Hawaiians and the public are protected.

As UH President you are obligated to protect all of the community by maintaining a non-violent, safe, and culturally healthy system, including the management of sacred lands atop Mauna Kea. Instead, you adopt leadership statements that demoralize the faculty, staff and students of our school and the greater Hawai‘i community. In fact, you support the intervention of police from several counties, state law enforcement, private security and the National Guard in ways that will escalate violence and increase the likelihood of further damaging and desecrating Mauna Kea. Your actions over the past years are irresponsible and dangerous to our University and our school in particular.

Hawaiʻinuiākea’s Dean, and faculty from several UH Mānoa departments, have repeatedly requested that you take effective measures to protect our faculty, staff and students who are experiencing serious trauma by the placement of the telescope on Mauna Kea and threats of unnecessary police interventions. In response, you give no meaningful feedback while simultaneously giving your full-throated support to AG Connor and Governor Ige’s hypocritical statements that protests should be done “in a place that does not put the mountain at risk.” With regard to violence, you accept the State’s threat that no violence or aggressive police responses will occur “as long as participants are behaving.” Stylized statements of violence and erasure like these should have no place in our University community but you’ve chosen to give them safehaven at our school’s expense.

You also encourage the University “leadership” to espouse false concepts by claiming that the telescope development is done on behalf of the people of the world. Sadly, you fail to recognize that your arrogance and white settler privilege is a sickness that causes you and your leadership to believe that you actually have the authority to speak for the people of the world. What kind of sickness would make any one person or institution believe they had the authority and power to speak on behalf of the world? And yet, when the indigenous people of this Hawaiian world tell you to stop, you dance a hula and say get out of the way or get arrested. You should all be ashamed.

The health of our University, our ‘āina and our greater community is at risk. The wellbeing of our educational institution and the Hawaiian place of learning it is supposed to foster is failing. These obscene forms of institutional racism have nothing to do with keeping open dialogue or collegial debate. The University is degenerating because of a leadership that allows falsehoods and neoliberal concepts to silence reasoned voices and native cultural identity and life. To be clear Mr. Lassner, your poor leadership has failed our school and this University system.

Kamakakūokalani is an active and valuable member of this University community. Our role is to use education to liberate and conscientize the lāhуi. We are committed to improving the conditions of the ‘Ōiwi community because by doing so, we lift up the needs of our larger Hawai‘i community. When the University permits its institutional racism, bigotry and indifference for Hawaiian culture, land and life, the community suffers. When the University appropriates Hawaiian language and cultural practices (like the hula) or denies the political implications such acts have on our communities, we suffer. Kamakakūokalani teaches tolerance but does not tolerate the kind of beligerent systemic acts of settler-colonial racism employed by you as president. Kamakakūokalani support for a healthy, critical development of Hawaiian cultural,
social and political identity leads us to condemn your presidency for fomenting an anti-Hawaiian, anti-environment and anti-peaceful place of Hawaiian learning. Our faculty, staff, students and community see your so-called leadership for what it is – a shameful display of arrogance and disdain with no capacity to learn and adapt beyond your destructive settler privilege and abuse of institutional power.

Finally, we end with the story of Kamehameha and the proclamation of mamala hoe, commonly known as the “law of the splintered paddle.” The story speaks of Kamehameha at a time when he is overzealous for battle. He mistakenly attacks a non-combatant fisherman who takes advantage of Kamehameha’s momentary lapse of judgement and smacks the aliʻi over the head with his paddle. The paddle splinters and provides the great chief a moment of clarity whereby he says that no innocent man, woman or child travelling in the islands should ever experience abuse or be harmed. This story is a metaphor that has lessons related to your failed leadership.

Clearly, you are nowhere near the leadership capacity of any Hawaiian chief let alone Kamehameha. Still, your form of management, arrogance and disrespect is fully deserving of the metaphorical smack of the head. Kamakakūokalani intends for this letter to be our splintered paddle. We hope you will learn something by this paddle, end your abusive behavior, and bring peace back to our university by resigning.

Konia Freitas, PhD
Chair
Kamakakuokalani Center for Hawaiian Studies
Hawai‘inuiākea School of Hawaiian Knowledge
University of Hawai‘i at Mānoa

Endorsed by UH for Mauna Kea

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Mauna Kea Protectors at the University of Hawai‘i, Statements to UH Administration

Mauna Kea Protectors at the University of Hawai‘i: July 17, 2019 - Statements to UH Administration at Bachman Hall, UHM, during the Solidarity with kia‘i at Mauna Kea event

Comments are disabled.
HALT CONSTRUCTION OF THE TMT and STOP POLICE ACTION AGAINST PROTECTORS OF MAUNA A WĀKEA

Dear President David Lassner:

We, the undersigned, recognize the reverence that Native Hawaiians have for Mauna Kea as a sacred cultural realm with a unique ecology that sustains the natural cycles of rainfall and waters for Hawai`i.

We acknowledge the severe impact of the proposed TMT on the pristine and rare ecosystem – 18 stories tall, two stories deep, across five acres in the Mauna Kea Reserve. Construction will excavate 20 feet into the mountain across eight acres.

We condemn the arrest of revered kūpuna, knowledge bearers, cultural leaders who stand firm in their commitment to protect Mauna Kea.

We join the MAUNA KEA PROTECTORS AT THE UNIVERSITY OF HAWAI`I in urging that you take these immediate actions:

1. Call upon the Governor to immediately revoke the declaration of a “state of emergency.”
2. Urge the Governor to withdraw all law enforcement personnel, and stop the confrontation against protectors of the mauna who include UH students, faculty and staff.
3. Cancel the sublease to TMT International Observatory.
4. Halt all construction activities for the TMT on Mauna Kea.
5. Uphold ethical research and pono science – desecration of land and the arrest of kūpuna and Hawaiian protectors of the mauna are an unacceptable and unethical cost of research.
To Deans, Directors, and Krystyna and Ron:

As we begin classes next week, I want to provide additional remarks and guidance for you to share with your department chairs and faculty. As an institution of higher education we are committed to the exchange of free ideas and open dialogue and I look forward to the upcoming academic year, welcoming students and faculty back to campus.

Several weeks ago, I provided you with guidelines to assist in holding discussions regarding classes on campus for the fall semester, via distance learning, and via independent study. There have been continued inquiries from the public, the legislature and others regarding UH faculty, students, and staff on the mauna. We all have a shared goal of ensuring that all classes are delivered as scheduled. Our faculty are professionals, and they are as passionate as any faculty anywhere about student learning. The latest reminder from VP Straney is provided below.

Given the entire context, I want us to consider the following:

1. All classes are expected to be offered as articulated in the class schedule. If there are any alterations, changes must be approved. Given the continued questions and rumors, please have your department chairs check with all instructional personnel on the accuracy of the information in the schedule of classes (i.e. MYUH class availability).
2. Any travel should be approved through the established channels; travel outside of this process is considered personal.
3. In terms of graduate students who remain on the mauna, if they are also GAs, RAs or TAs, they are expected to perform their assigned duties. If they are not able to do so, then the department needs to find another individual to perform those duties.
4. Please refer to my prior email regarding the potential impact on students. We should remember that, at this moment in time, it is more important than ever that we stay in communication, as it is possible that rumors and misinformation will be plentiful.

I have deep respect for you and our faculty and look forward to the upcoming school year. VP Straney’s message is a reminder of existing University policies. Should there be any questions regarding this message, please contact the OVCAA.

Michael S. Bruno
Provost
University of Hawai‘i at Mānoa
Honolulu, HI 96822
808-956-8447

-------- Forwarded message --------
From: Donald Straney <dstraney@hawaii.edu>
We, the faculty of the Mauna Kea Protectors at the University of Hawai‘i, call on all members of the University of Hawai‘i Board of Regents to honor your legal and ethical obligations as public servants to our University’s students, faculty, and staff. These obligations require you to acknowledge your biases in your support of the Thirty Meter Telescope (TMT) project and your flagrant disregard for the health and well-being of our University’s stakeholders and for the health and well-being of our Native Hawaiian people. The Board of Regents is meant to be OUR Board, acting in OUR best interests.

As appointed members of the current Board of Regents, you are in violation of the BOR bylaws and policies, as well as the state constitution. Your Board is ignoring its trust obligation to conduct the affairs of our University in a manner that serves students, faculty, staff, and the public good. You have consistently made decisions that promote a single political and economic agenda relating to Mauna Kea and the TMT project, while ignoring the safety, wellbeing, and greater interests of the University, the Native Hawaiian people, and the Hawai‘i community.

The Board of Regent’s constitutional obligations are supported by policies, bylaws, and common sense; all of which declare that each member is appointed to be a good public servant who heeds the voices of our University stakeholders when making decisions. Therefore, you are legally expected to make conscious decisions for the betterment of our community including the Native Hawaiian community whose culture and identity are constitutionally protected and who are central to our University’s commitment to being a place of Hawaiian learning.

In fact, the Hawai‘i State Constitution requires state institutions like the Board of Regents to reaffirm and 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.” Your Board has ignored this important constitutional provision by staking what is left of your reputation on the last clause of the law and ignoring what is the most significant and direct duty of protection. Clearly, you have done nothing to reinforce the legal and ethical mandates that require protection of the rights, responsibilities, and values of Native Hawaiians. As such, you are in breach of your fiduciary responsibilities.

The BOR’s Special Board Meeting Agenda item III.D. advocates for a Permitted Interactive Group (PIG) investigative body for Mauna Kea to provide cover for the construction of the TMT. In blatant contravention of the State of Hawai‘i Sunshine Law, PIG is designed to carry out the biased, prejudged actions of your Board that favor the TMT project while shielding you, the University administration, the Office of Mauna Kea Management, and the Institute of Astronomy from public scrutiny.
We object to this action because it is legally and ethically deficient and further erodes the rights of University stakeholders and the Native Hawaiian people.

Let us be clear:

Since July 17, human and civil rights institutions and organizations locally, nationally, and worldwide have called on University of Hawai‘i President Lassner and Governor Ige to stop their threats of violence and end the TMT project. Even though the emergency declaration has been rescinded, the police and national guard threat is still present. Your Board has taken no leadership in this matter and has chosen to follow the dictates of President Lassner, the Governor, the TMT partners, and political operatives.

Your silence as members of the Board of Regents in the face of overwhelming local, national, and international objections to the building of the TMT shows a willingness to endorse the TMT’s extractive and colonizing agenda, the University of Hawai‘i’s business agenda, and Governor Ige’s racially-insensitive and hyper-aggressive deployment of law enforcement agencies. In recent weeks your Board has allowed for a wholesale attack on the Protector’s state and federal constitutional rights by President Lassner, Governor Ige, and other State and local government officials. In particular, your Board’s acquiescence to these attacks constitutes collusion in the deplorable arrests of 33 peaceful kūpuna on Mauna Kea. Hundreds of other Protectors will suffer a similar fate if your Board fails to halt the TMT project.

As members of the Board of Regents, you are public servants, not agents of the TMT partners or private interests. You must, therefore, carry out your trust responsibilities in the best interest of all stakeholders. The actions taken by your Board in recent years clearly display a level of prejudice and bias in your unwavering support for Governor Ige’s dangerous and overzealous executive law enforcement policies that falsely characterize Native Hawaiians and Protectors on Mauna Kea as miscreants, delinquents, and lawbreaking criminals.

In plain language, your Board’s non-action is cowardly. You have not been relieved of your trust responsibility to protect the cultural and environmental integrity on Mauna Kea. Nor does the inaction of your Board excuse you from your fiduciary obligation to advocate for the safety of the Protector community (in particular, UH faculty, staff, and students) who have been routinely threatened with state-sanctioned violence on Mauna Kea, and who have looming over them the UH’s administrative rules, which are designed to punish those exercising their rights to religious freedom, academic freedom, freedom of speech, and freedom of peaceful assembly.

Your Board’s disregard for community concerns and outrage relating to

- the Mauna Kea management rules,
- the negative environmental and cultural impacts on Mauna Kea (past and present),
- the cultural degradation that the building of the TMT will cause,
- the serious breach of ethical and professional research (on all levels) towards all individuals (including our Mauna a Wakea) who experience negative impacts from a research development project as massive as the Thirty Meter Telescope, and
- the trauma that the TMT project is now creating on Mauna Kea (and on our campuses),
demonstrates negligence in the fulfillment of your trust responsibilities.

Each member of the Board has a tangled history of supporting the TMT project and other similar developments that negatively impact our public trust lands and Hawaiian culture. At least one of your members sits on the Board for Mauna Kea Management. These actions illustrate your Board’s inability to carry out mandated trust obligations fairly and equitably. Your callous disregard for these concerns makes it abundantly clear that your Board is approaching all matters relating to Mauna Kea and the TMT project with disdain for the cultural and spiritual beliefs of the Protectors. Your Board’s decision regarding Mauna Kea takes our University on a path of cultural violence, the intention of which is to override Native Hawaiian sovereignty that we note, has never been relinquished.

All your actions reveal that you have adjudged any facts and rules relating to Mauna Kea in favor of the TMT project in advance of final votes on the matter. Your Board’s predetermined stance in favor of the TMT project highlights an embedded bias that guarantees an unfair process and ensures that the merits of the Protectors claims will be ignored as you move the TMT into “predestined grooves” for development. As such, our confidence in your governance has reached a tipping point and we are no longer willing to have our University conduct “business as usual”.

This statement invites you to rescind all actions supporting the TMT on Mauna Kea.

Common sense dictates that your Board of Regents unshackle itself from the patronage bonds of the Governor and special interests, and find the courage to protect Mauna Kea from the Thirty Meter Telescope thereby ending the physical and emotional trauma in our communities. Common sense—and any sense of doing what is ethical—demands that your Board take immediate action to terminate the TMT license and development agreement.

To accomplish this, your Board should immediately negotiate with the Mauna Kea Protectors to create an independent decision-making body inclusive of their representatives, as well as members of our UH Protector community to review and act on all matters that relate to the TMT project and the UH’s overall management of Mauna Kea.

To truly represent our University stakeholders, to truly be OUR Board of Regents, you must choose a more pono approach from this point forward. Be courageous. Honor the trust responsibility you pledged to uphold by protecting Mauna Kea’s sacredness and the Protectors so that our University can truly begin behaving like a Hawaiian place of learning!

Submitted on behalf of all the faculty of the Mauna Kea Protectors at the University of Hawai‘i.

Dr. Konia Freitas  Dr. Margie Maaka
Dr. Cynthia Franklin  Dr. Laiana Wong
Dr. ku‘ualoha ho‘omanawanui  Kekailoa Perry, JD
Dr. Subramanian Shankar

Mauna Kea Protectors at UH Statement to BOR
Page 3 of 3
“We Will Persist in Our Sacred Commitment to Protect Mauna A Wākea”
Statement of faculty and staff of various University of Hawai‘i system campuses


We, the undersigned UH faculty and staff, affirm our support for this statement and call the UH administration, Board of Regents, the TMT International Observatory LLC (TIO) and its members, to immediately cease pursuing construction of the TMT on Mauna a Wākea. We affirm our kuleana to protect this sacred piko of the lāhui Hawai‘i, and we will persist in our sacred commitment to protect Mauna a Wākea.

On November 28, we celebrated Lā Kūʻokoʻa, in honor of the recognition of the Hawaiian Kingdom and Constitutional Monarchy as an independent nation-state by Great Britain and France, which opened the way for treaties of friendship and commerce between the Hawaiian government and other nations. Our call to terminate the construction of the TMT is made in acknowledgment of the sovereignty of the Hawaiian nation and its unbroken claim to Mauna a Wākea as part of the Hawaiian national lands and to respect and honor Native Hawaiian spiritual and cultural beliefs, customs and practices.

The proposed TMT would be 18 stories tall, 2 stories deep underground and spread out over 5 acres in the Mauna Kea Science Reserve. The construction footprint will extend out to 8 acres, pave 3,400 feet of new road and excavate 20 feet into the mountain to remove 64,000 cubic yards of earth. A commercial dump truck can hold 10-14 cubic yards of dirt. It will take over 4,700 dump truck loads to transport that amount of soil.

This will have a severe impact on the pristine and fragile ecosystem of the summit, obstruct the view plane of the most sacred and revered mountain in Hawai‘i, degrade sacred cultural resources, and irreversibly impact irreplaceable natural resources that are integral to sustaining the primary source of freshwater on Hawai‘i island.

Despite what a majority of the Hawai‘i State Supreme Court may have decided, construction of a TMT on Mauna a Wākea is an intolerable breach of the trust to manage the summit as a conservation district, protecting its rare and precious cultural and natural resources.

As faculty and staff of campuses throughout the University of Hawai‘i system, we gather today to affirm our commitment to steadfastly hold the University of Hawai‘i Administration (UH) accountable for its responsibility to manage and protect the sacred, cultural, natural and scientific resources and landscape of Mauna a Wākea. In the interest of protecting the most sacred and revered mountain summit in Hawai‘i, we oppose and will continue to fight the construction of the Thirty Meter Telescope.
We call upon the UH president and Board of Regents to:

- Terminate any and all agreements for the construction of the Thirty Meter Telescope (TMT) on the summit of Mauna A Wākea.
- Reject the current draft of Chapter 20-26, Hawai‘i Administrative Rules, entitled "Public and Commercial Activities on Mauna Kea Lands," which targets and would, in effect, criminalize those seeking to protect and sustain the mauna and restrict Native Hawaiian spiritual and customary practices.

We call upon TMT International Observatory LLC (TIO) and its Members--Caltech, the University of California, the National Institutes of Natural Sciences of Japan, the National Astronomical Observatories of the Chinese Academy of Sciences, the Department of Science and Technology of India, and the National Research Council of Canada--as well as funders, the Gordon & Betty Moore Foundation, to:

- Immediately cease pursuing construction of the TMT on our sacred mountain summit.

We call upon our UH community of students, faculty, staff and administrators to:

- Uphold our responsibility as scholars, researchers and academics to adhere to the highest ethical standards for research in relation to the people with whom and the places where we work.
- Oppose research that severely compromises the work that we have done to build an ethical relationship between the academy and our community in Hawai‘i and that undermines the UH goal to become a model indigenous serving institution.

We make these calls to cease construction based on four primary principles:

1. **WE UPHOLD ETHICAL RESEARCH.** The arrests of dozens of people, particularly the Native people of this land, for research infrastructure is an unacceptable cost for any kind of research and is a glaring contradiction to what many of us teach our students in a wide variety of disciplines about ethical relationships between research, researchers, place and community. Pursuit of the TMT is a breach of ethical research standards of respect for places and communities affected by research.

2. **WE SUPPORT THE DISSenting OPINION OF JUSTICE WILSON.** We agree that prior degradation of the summit by a proliferation of telescopes under decades of
mismanagement by the UH does not reduce the impact to the summit nor justify the further degradation of the summit with the construction of the TMT. This regressive logic compromises decades of work by community members, researchers and policy makers who have contributed to environmental protections that are in place in Hawai‘i.

3. **WE OPPOSE RESEARCH UPHELD BY UNETHICAL ADMINISTRATIVE RULES.** The current draft of UH administrative rules for "Public and Commercial Activities on Mauna Kea Lands" places a heavy burden upon and, in effect, criminalizes those exercising cultural practices and protecting the mauna.

4. **WE OPPOSE THE DIVERSION OF RESEARCH AND TRAINING (RTRF) MONEY TO PAY MAUNA KEA LEGAL FEES.** TMT purports to bring in monies for the UH and the State; however, since August 2015, five percent of the indirect costs for research brought in by UH faculty throughout the system has been used to pay for permits, consultants, and legal fees for the Thirty Meter Telescope, Office of Mauna Kea Management, the Daniel K. Inouye Solar Telescope on Haleakalā and other astronomy related programs.

**FURTHER EXPLANATION OF STATEMENT’S MAIN POINTS**

1. **WE UPHOLD ETHICAL RESEARCH.**
The arrests of dozens of people, particularly the Native people of this land, for research infrastructure is an unacceptable cost for any kind of research. The pursuit of TMT construction is a breach of ethical research standards of respect for places and communities affected by research.

The pursuit of TMT construction is a breach of widely-accepted standards of ethical research. In no framework of ethical research is it acceptable to arrest dozens of people to set up research infrastructure and conduct research. We can look to two broad areas of research ethics to consider the planned construction of the TMT for research: human subjects research protocols and Indigenous research methodologies.

Research that involves human subjects is governed by protocols that protect participants, particularly vulnerable populations. Following various ethical failures in medical research, such as the [Tuskegee Syphilis Study](https://en.wikipedia.org/wiki/Tuskegee_Syphilis_Study), the US Government issued the 1979 Belmont Report that proposed three principles that should ground the ethical conduct of research involving humans: respect for persons, beneficence and justice. In layman’s terms, these principles mean that: 1) individuals should be given a choice about whether and how to participate in research, and individuals with diminished autonomy should be entitled to additional protections; 2) research should benefit the people involved in and impacted by the research; and 3) the distribution of
the burdens and benefits of research should be evenly distributed. In other words, it should not be the case that one group in society bears more of the costs of research while another group reaps more of its benefits. These principles are considered to be universal, and they provide a foundation for the laws and policies that govern all research in US universities. While astronomy claims to be a research endeavor in which humans are not the focus, nevertheless, it is clear that the construction of the TMT has huge impacts on humans, particularly on Native Hawaiians and Hawaiian cultural practitioners. These impacts must be considered. Would an application to do human subjects research that could result in the arrest and incarceration of scores of individuals, including members of a vulnerable population, pass an Institutional Review Board? Absolutely not. So, why should it be allowed for the TMT?

Across various disciplines, countries and institutions, the field of Indigenous research methodologies has been elaborated by a growing number of scholars. A paramount ethic within Indigenous research ethics is respect for and deep collaboration with the places and communities affected by research. Indigenous research methodologists start from the understanding that university research has historically aided in projects of colonial extermination, forced assimilation, land alienation, and cultural and physical exploitation of Indigenous peoples. In contrast, Indigenous scholars have articulated ethics that seek healing and that demand that, at the very least, research do no further harm to Indigenous people and the places that sustain us. Indigenous research ethics ask that researchers consider a range of questions to guide their work: Did the community initiate the research? How will Indigenous people benefit from it? Who determines the ways Indigenous people are represented? How is knowledge legitimized? How are researchers held accountable to the communities with whom they work? Not only does the construction of the TMT fail to consider these questions, the UH’s support for the TMT diminishes the diligent efforts that countless UH faculty have made to conduct community-based research that strengthens relationships between the academy and the Hawaiian communities beyond our campuses. Native Hawaiian faculty in particular have been at the leading edge of making UH a Hawaiian Place of Learning that takes the health of our ʻāina, our neighborhoods, and our diverse communities seriously. To support the TMT is to diminish this work that is critical to UH’s mission.

We want to remind the UH administration and the TMT corporation that University of Hawai‘i students, faculty and staff are among the protectors of Mauna A Wākea, among those who have been previously arrested on both Mauna A Wākea and Haleakalā. We have stood alongside preschool teachers, hula masters, musicians, farmers, healers, retirees and kūpuna and the many individuals and ʻohana who comprise the movement to protect Mauna a Wākea. The arrest of dozens of people, particularly the Native people of this land, for research infrastructure is an unacceptable cost for any kind of research. We are not against science (indeed, Native Hawaiian scientists are among the protectors, too), we are against unethical research. The University, the TMT corporation partners, and the broader community must understand that
research is not innocent of power. It is our ethical duty to assure that this power is not wielded as a weapon.

In contrast, we uphold the highest standards of ethical research. As university researchers our first responsibility is to the people and places we study. Researchers must do everything in their power to protect the well-being and to honor the dignity of those studied and those who are impacted by where and how we conduct our studies. As university teachers and support staff, our students are our priority. We have seen firsthand the ways that the struggle to protect Mauna a Wākea has drained them physically, spiritually and financially. We have seen Native Hawaiian students whose studies have been adversely affected because of the emotional toll of this struggle. When students have brought their deep concerns to the university administration, they have often been met with callousness and disregard. The university must do everything in its power to nurture and protect the well-being of our students.

2. WE SUPPORT THE DISSENTING OPINION OF JUSTICE WILSON.
As articulated in Judge Michael Wilson’s dissenting opinion, we agree that prior degradation of the summit by a proliferation of telescopes, under decades of mismanagement by the UH, does not reduce the impact to the summit nor justify the further degradation of the summit with the construction of the TMT.

- The degradation principle, enunciated in the dissenting opinion from the State Supreme Court, upends the absurd argument presented by the BLNR that because the area affected by the TMT project was previously subjected to substantial adverse impacts, the TMT could not be the cause of further adverse impacts.
- Significantly, the dissenting opinion observes that “It is the state that authorized previous construction within the Astronomy Precinct of the MKSR that created the substantial adverse impacts. Thus, the party that caused the impacts is empowered by the degradation principle to increase the damage” (Dissent at p. 5).
- The obvious purpose of the conservation district is to conserve, protect and preserve natural and cultural resources in the conservation district, Judge Wilson correctly argues that it is not to establish a process permitting degradation due to past adverse impacts.
- Moreover, the dissent acknowledges that “because ‘natural resources’ includes cultural resources, land use cannot occur in the conservation district if it causes a substantial adverse impact to existing cultural resources” (Dissent at p. 6). Again, the use of the “degradation principle” as a measure of analysis and decision making renders inconsequential the failure of the state’s obligation, and potentially any future obligations, to meet its constitutional duty to protect natural and cultural resources for future generations.
The legislative history of HRS 183c-1 and HAR 13-5-30(C)(4) contains no discussion relating to the degradation principle. To the contrary, writes Justice Wilson, it's importance is to provide more protection for Hawaii's natural resources by preventing further damage to conservation land already subjected to substantial adverse impacts (Dissent at p. 10).

We are reminded that in the past four decades, since the beginning of the Kaho'olawe Aloha 'Āina movement in 1976, there has been a resurgence of sacred commitment to the places and processes that rely on remembering and manifesting genealogical relationships to places. The degradation of the island of Kaho'olawe by the U.S. Navy did not at all justify continued military training. That would have been absurd. Instead it led contemporary generations of Native Hawaiians rallying around the kuleana or responsibility to end all military use of the island, remove the ordnance and heal and restore the island, under the principle of aloha 'āina, to love, care for and respect our lands, oceans and resources.

The “degradation principle” as a measure of land use through permitting processes is contradictory to our contemporary knowledge that links the sacred to the stewardship of place, the role of 'ohana and kupu 'āina to generations of sustainable land use practices and activities.

3. WE OPPOSE RESEARCH UPHELD BY UNETHICAL ADMINISTRATIVE RULES.
The current draft of UH administrative rules for "Public and Commercial Activities on Mauna Kea Lands," places a heavy burden upon and, in effect, criminalizes those exercising cultural practices and protecting the mauna.

Thus far there have been 57 arrests on Mauna A Wākea alone related to the construction of the TMT. The University has depended on state law enforcement to arrest community members, students, and faculty in order to push through the construction of a thirty-meter telescope for the research interest of one UH department, the IFA. This dependency on the arrests of Hawai’i’s people for the research interest of any university department is unethical.

The current proposed administrative rules are apparently designed to target those who seek to protect Mauna A Wākea by imposing penalties on protectors in addition to penalties imposed by state law enforcement. Many of these rules are obviously a direct response to the 6 month peaceful occupation by kia‘i in 2015 who were forced to stay on the mauna as the university attempted construction prior to the conclusion of the contested case process.

The very act of assembling 10 or more people on Mauna a Wākea, under the current draft rules, would require a permit from the University and yet “demonstration” is listed as an activity justifying cancellation of permits to assemble. On June 24th, 2015, at least
750 people assembled on the Mauna to protect it from TMT construction-related vehicles. We know that if construction is attempted again, there will be another massive assemblage of protectors on the mauna void of any permits. The very act of assembling without a permit makes all who assemble susceptible to the proposed rules fines, expulsion and exclusion.

- Once on the mauna, the following actions would impose fines, immediate expulsion and exclusion from the mauna under the current proposed rules:
  - Using artificial lighting (such as flashlights)
  - Using cell phones
  - Using wireless technology
  - Parking vehicles in non-designated sites
  - Creating vocal noise (chanting)
  - Use of a PA system
  - Use of musical instruments

- Fines for violation of any rules are as follows:
  - First infraction - up to $2,500.00
  - Second infraction - up to $5,000.00
  - Third infranction - up to $10,000.00
  - A kiaʻi could be faced with $17,500.00 in fines in a single day by the university alone. This is more than the annual undergraduate or graduate tuition for local UH students and equates to about a year’s salary for UH graduate workers.

- The proposed rules establish enforcement as conducted by “authorized agents or law enforcement officers”. An “authorized agent” is an entity authorized by the university president, opening the door for private security to enforce university administrative rules on protectors. We firmly oppose the use of private security agents on the mauna.

4. **WE OPPOSE THE DIVERSION OF RESEARCH AND TRAINING FUNDS (RTRF) TO PAY MAUNA KEA LEGAL FEES**

Indirect funds from research grants of faculty and staff throughout the UH system are deposited in the Research and Training Revolving Fund (RTRF). The UH Systemwide Policies and Procedures Information System Executive Policy 12.216 states:

“6. It is in the best interests of the University to invest RTRF funds in a fashion which recognizes this partnership, and which includes consultation in a collaborative manner with faculty researchers at all levels of decision-making that affect the allocation of RTRF. Such decision making processes should result in an appropriate sharing of the RTRF resource such that excellent support is provided for the performance of current research commitments, and that incentives are provided for continued excellence in research and for an evolution of the research enterprise that reflects developments in science and technology.”
Available information from the Office of the Vice President for Research and Innovation (OVPRI) show Investments for the UH Mānoa Legal Unit spanning 2011 – 2015:


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<th>TOTAL</th>
<th>Mauna Kea</th>
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<td>FY2011</td>
<td>$400,000.00$</td>
<td>400,000.00</td>
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<td>FY2012</td>
<td>$905,000.00$</td>
<td>850,000.00</td>
<td>93.9%</td>
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<tr>
<td>FY2013</td>
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<td>FY2014</td>
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<td>42.0%</td>
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<td>FY2015</td>
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<td>TOTAL:</td>
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What is especially troubling is that these investments were made with no input from any of the faculty at Mānoa, despite the directive to include “consultation in a collaborative manner with faculty researchers at all levels of decision-making that affect the allocation of RTRF.” Nor does the diversion of RTRF monies fulfill the principle of “appropriate sharing of the RTRF resource such that excellent support is provided for the performance of current research commitments.”

Moreover, since 2015, per a memo from the Vice President for Research and Innovation (OVPRI), Vassilis Syrmos to Chancellor Bley-Vroman (8/18/2015), OVPRI has taken 5% from across the UH System to fund permits, consultants and legal fees for the TMT, Office of Mauna Kea Management and the Daniel K. Inouye Solar Telescope. This memo enabled an expansion of the taking of RTRF in support of Astronomy programs, again with no consultation from the faculty from any of the campuses and resulting in the disproportionate allocation of funds to the Institute for Astronomy (IFA).

Requiring a legal team to ensure that research can proceed is an indication that the intentional desecration of Mauna Kea and Haleakalā is not only controversial, but wrong and a diversion from ethical research standards.

This increased funding for legal fees to establish IFA research sites begs the question: If Mauna Kea-associated telescopes are so financially beneficial for the UH system, why are we funding their legal fees and management? They should be self-sustaining. Management is the responsibility of the users, and should not be borne on the back of the rest of the UH system, whose faculty would otherwise utilize these funds to pursue new lines of research, fund graduate students, etc. This money could be better invested across the UH system to benefit a
larger number of individuals. Why are we spending it here? Why have the faculty been stripped of having a voice in how the money we raise is spent?

The University of Hawai‘i continues to maintain vibrant and active research programs. The focus of the Office of the Vice President for Research and Innovation (OVPRI) should use the Research and Training Revolving Fund (RTRF) to increase the quality and quantity of the research/scholarship across the institution.

-------------------------------------------------------

In conclusion, the University of Hawai‘i has prioritized astronomy development at the expense of properly caring for Mauna Kea’s natural and cultural resources. Its continued support for the TMT prioritizes construction of research infrastructure over the well-being of students, staff and faculty who have committed to the protection of Mauna a Wākea. The policy and practice of UH must begin to prioritize the protection of the Mauna Kea and its natural and cultural resources, respect the protectors and Native Hawaiian cultural practitioners of Mauna Kea and begin to heal the degradation that has already occurred.

ADDITIONAL LINKS & MATERIALS

RTRF Report 2015

Summary of Rules

Current proposed rules
https://www.hawaii.edu/offices/bor/adminrules/chapter26-proposed.pdf
MEMORANDUM

TO: Robert Bley-Vroman, Interim Chancellor
   University of Hawai'i at Mānoa

FROM: Vassilis L. Syrmos
      Vice President for Research and Innovation

SUBJECT: FY 2016 RESEARCH AND TRAINING REVOLVING FUND (RTRF)
         INDIRECT OVERHEAD FACILITATING ALLOCATION

In this fiscal year, there will be a five percent (5%) withholding from the University of Hawai'i System RTRF to fund astronomy programs across all campuses. These funds will be used for environmental assessments, consultants, and legal fees for the Daniel K. Inouye Solar Telescope, Thirty Meter Telescope (TMT), Office of Mauna Kea Management (OMKM), and other astronomy related programs. The use of these funds will be posted at fiscal year-end on our website.

Your adjusted FY 2016 RTRF allocation for University of Hawai'i at Mānoa is $28,012,708. You are authorized to expend this allocation with the understanding that all expenditures comply with HRS 304A-2253 which requires that RTRF is spent for research and training purposes, and should be expended in accordance with the University of Hawai'i Executive Policy E12.216.

The supporting documents for your allocation will be provided electronically to your fiscal administrator/budget officer.

Should you have any questions, please contact Tracie Nakagawa at x66273. Thank you.

c: David Lassner, President
   Kalbert Young, Vice President for Budget & Finance/CFO
   Brian Taylor, Interim Vice Chancellor for Research
   Marcus Hayden, Fiscal Administrator
**Important Message to UH Manoa Ohana**

1 message

**UH Manoa Leadership** <announce@hawaii.edu>  
To: announce@hawaii.edu  
Fri, Jul 12, 2019 at 3:35 PM

Aloha UH Manoa Ohana:

This week it was announced that construction of the Thirty Meter Telescope on Maunakea will commence next week. See [https://www.hawaii.edu/news/2019/07/10/tmt-construction-set-to-begin/](https://www.hawaii.edu/news/2019/07/10/tmt-construction-set-to-begin/)

Members of our campus community and the general public have had different reactions and responses to this announcement. Here at the University of Hawaii at Manoa, we are steadfast in our mission of challenging students to reach their highest level of achievement by inspiring learning, discovery and creativity inside and outside the classroom. This means we must all embrace opportunities to have empathetic discussions about our disparate opinions, including those that oppose decisions made by the university and state.

We stand committed to the free and open exchange of ideas and affirm the rights of members of our community to engage in free speech and expression guaranteed by the First Amendment to the U.S. Constitution and the Constitution of the State of Hawaii. UH Manoa has a clear and impressive history of diverse ideas, opinions and worldviews being expressed in different ways by members of our on-campus and extended community. We recognize that the issue of Maunakea and the construction of the TMT has and will continue to draw many into an open exchange of ideas and we encourage such dialogue in ways that are safe and respectful of different perspectives.

The safety of our faculty, staff and students is paramount. This includes emotional, intellectual and physical safety. UH Manoa provides support services for these situations, and those who experience emotional trauma or stress regarding this issue or any other issue should reach out to campus support services. Even over the summer you may reach out to the Counseling and Student Development Center ([http://www.manoa.hawaii.edu/counseling/](http://www.manoa.hawaii.edu/counseling/)) at (808) 956-7927, Queen Liliuokalani Center for Student Services, room 312. Those who experience intimidation or harassment should report it to UH Manoa Department of Public Safety at (808) 956-6911.

We commend those who have engaged in peaceful and non-disruptive protection of the things they hold dear and demonstration against things they oppose. In particular, we have been inspired by the Kapu Aloha that has been called for on the mauna. In anticipation of further peaceful demonstrations, the university has developed guidelines for UH faculty and staff, including student employees, with information in the event they encounter forms of expression that may alarm them or prevent them from accessing or leaving their place of employment. See

[https://mail.google.com/mail/u/0?key=4369889ebf&view=pt&search=a...read-f%3A1638905147313814875&simplt=msg-f%3A1638905147313814875](https://mail.google.com/mail/u/0?key=4369889ebf&view=pt&search=a...read-f%3A1638905147313814875&simplt=msg-f%3A1638905147313814875)
As the flagship of our state's only public higher education system, UH Manoa has a deep responsibility to provide high-quality affordable education to advance our people, our communities and our islands. That mission requires that we support and celebrate peaceful dialogue, diverse perspectives and critical analysis, as we continue our work in teaching, learning, scholarship and service. Mahalo for all you do to contribute to this vibrant campus!

Aloha,
UH Manoa Leadership

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This message was sent on behalf of UH Manoa Leadership. Please do not reply to this message. It was sent from an address that cannot accept incoming email.

Announcement ID number: 1562981555-19867
Announcement distribution:
- Faculty, staff, and all students at the UH Manoa campus(es)
- Faculty and staff at the UH System Administrative Offices
July 26, 2019

The Honorable David Y. Ige
Governor, State of Hawai‘i
Executive Chambers
State Capitol
Honolulu, HI 96813
Fax: (808) 586-0006

Dear Governor,

Amnesty International—a global human rights organization with over 7 million members and supporters worldwide—urges you to halt construction of the Thirty Meter Telescope on Mauna Kea and ensure the human rights of Indigenous Peoples opposed to the telescope project are respected, protected and fulfilled, including their rights as Indigenous Peoples and their right to peaceful protest and assembly.

The government should have consulted with the Indigenous Peoples whose human rights may be impacted by the telescope, in order to obtain their free, prior and informed consent (FPIC), before approving the project, and should do so now before moving forward with construction. Indigenous communities must be full participants in any decision that may affect their human rights, including the right to own and maintain their relationship with lands of cultural and spiritual value to the community.

Indigenous Peoples’ rights regarding FPIC were recognized at the international level in response to a demand from the global movement of Indigenous Peoples. Their legally binding status has been confirmed in a number of rulings of the Inter-American Court of Human Rights. The principle has also been established in decisions of the United Nations (UN) Human Rights Committee and the African Commission on Human and Peoples’ Rights. It has been formalized in standards such as the General Recommendation no. 23 on the International Convention on the Elimination of All Forms of Racial Discrimination of the United Nations (1997), policies of UN agencies, and culminating in the UN Declaration on the Rights of Indigenous Peoples.
FPIC applies in those cases where the rights of an Indigenous People might be impacted by a particular policy or development project. It is important to emphasize that the necessity of FPIC rights for Indigenous Peoples arises from their collective modes of living and decision-making structures; the irreparable damage that can be caused by initiatives that impact significantly on their cultural integrity or land rights; and cumulative impacts of human rights violations stemming from colonization or external rule.

We also urge you to withdraw the Emergency Proclamation issued on July 17, 2019 and ensure that law enforcement officials involved in the policing of protests against the telescope take all measures needed to ensure that the treatment of demonstrators is in accordance with international human rights standards and the U.S. Constitution. It is the legitimate right of people to peacefully express their opinion. The command hierarchy must convey a clear message to law enforcement officials that their task is to facilitate and not to restrict a peaceful public assembly.

The decision to disperse an assembly should be taken in line with the principles of necessity and proportionality, and only when there are no other means available to protect public order from an imminent risk of violence. Arrest and detention should be carried out only in accordance with procedures established by law and should not be used as a means to prevent peaceful participation in a public assembly nor as a means of intimidation or punishment for participation.

For more information, I am attaching Amnesty International’s Good Practice for Law Enforcement Officials Policing Demonstrations. We look forward to your reply and would be happy to provide additional information as needed. Please contact Zeke Johnson, Senior Director of Programs, at zjohnson@aiusa.org or (212) 633-4256.

Yours Sincerely,

Margaret Huang
Executive Director
Amnesty International USA
HONOLULU, Hawaii – Following Governor David Ige’s press conference in which he laid out his vision for future stewardship of Mauna Kea, University of Hawai‘i President David Lassner responded with a statement to reporters, saying that the university “can and must do better.” The governor was critical of the state’s management of Mauna Kea (a responsibility which falls to the university’s Office of Mauna Kea Management under the Mauna Kea lease agreement with the Department of Land and Natural Resources.) Ige outlined ten actions that he wants to see the university to agree to.
Lassner read this statement to reporters today:

The university deeply appreciates the governor’s strong commitment to improved care for Mauna Kea. We share that commitment. We agree that the University can and must do better. We apologize for where our efforts have fallen short to date. The specific actions that the governor has requested today are consistent with what we have heard in public testimony, discussions, and meetings with numerous community members and stakeholders over the last two months. We appreciate his support, as accomplishing many of them will require close collaboration with the state and other partners. University of Hawaii President David Lassner

President Lassner added that UH will have more information within the week.

Photo courtesy University of Hawaii
Statement in Support of the Kiaʻi of Mauna Kea

We write on behalf of the Executive Committee of the National Council of the American Studies Association, the oldest and largest scholarly association devoted to the interdisciplinary study of U.S. cultures and histories, to support an international divestment movement to halt the building of the Thirty Meter Telescope on Mauna Kea. Mauna Kea is sacred to Kānaka Maoli (Native Hawaiians). As one of the principal sources of water on Hawaiʻi Island and as wao akua (place of the gods), Mauna Kea is a piko (spiritual and genealogical center) of Kānaka Maoli (Native Hawaiians) and that which sustains life for all living beings on Hawaiʻi Island.

On October 30th, 2018, the Hawaiʻi State Supreme Court, following a contested case hearing, granted a Conservation District Use Permit (CDUP) for the construction of the Thirty Meter Telescope (TMT) to the University of Hawaiʻi. The TMT is a 184-foot tall observatory to be built on Mauna Kea and, if constructed, would be the largest structure on Hawaiʻi Island and the fourteenth telescope on the summit of Mauna Kea. The TMT CDUP application that requires the transportation of chemical waste up and down Mauna Kea and ignores the hundreds of cultural sites on Mauna Kea. Thus, the construction of the TMT stands in stark violation of Hawaiʻi State administrative rules and laws. Moreover, as noted in a federal environmental impact statement for the Keck Telescope, another albeit smaller observatory on Mauna Kea, "future activities on the summit of Mauna Kea would continue the substantial adverse impact on cultural resources."

For as long as there has been development on Mauna a Wākea, hui (groups) of Kānaka Maoli have asserted their genealogical connection to Mauna Kea beginning with the construction of
the first telescopes on the summit in 1968 (Casumbal-Salazar, 2014). While previous battles were fought often in the courts (Puhipau and Landler, 2005), the construction of the TMT, as the largest telescope ever to be built at the time of writing, brought international attention to the struggle of Kānaka Maoli and their allies to protect Mauna Kea. After intervening in a 2014 groundbreaking ceremony for the TMT, Kānaka Maoli kiaʻi and their allies organized a blockade against the construction of the TMT, leading to mass arrests of Kānaka Maoli by the State of Hawaiʻi. At the time of writing, 57 kiaʻi in total have been arrested for protecting Mauna Kea. In recent years, a series of statements were passed by graduate students and faculty at the University of Hawaiʻi, the University of California, and the University of Victoria against the construction of TMT.

As these statements have emphasized, TMT and the logics of settler colonial science are setting a particular agenda for Kānaka Maoli, where imagining a future rooted in Indigenous resurgence is foreclosed in the interest of linear settler colonial progress. By prioritizing the discovery of “new worlds” and “scientific knowledge” instead of respecting Kānaka Maoli genealogical ties to Mauna Kea, TMT investors invalidate Kānaka Maoli as caretakers of the land (Casumbal-Salazar, 2017, 2). Therefore, universities like the University of Hawaʻi, UC system, and Caltech funding TMT for “knowledge” continue colonial legacies of transforming Native people into irrational and non-modern subjects "opposed" to science and Native lands into spaces of economic development. In this way, knowledge is premised upon colonial violence, extraction and profit, rather than respecting Indigenous relationalities with land and water. If we are truly to respect kiaʻi (guardians of lands and water) and co-create new futures, we must also consider academia’s complicity in invalidating and disrespecting Indigenous ways of knowing and living, as evidenced by its investments in the TMT project. We can instead support sustainable models of Indigenous stewardship in places like Hawaiʻi, Marianas, Marshall Islands, Canada, Mexico, and other settler states.
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Contact the ASA

Interested in becoming a member, or have a question about your membership? Let us put you in touch with our staff or one of the many dedicated members who contribute their time to sustain the work of the association.

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Donations support long-standing programs, such as the annual meeting, awards for
Community Voice

How The Hawaii Constitution Protects Mauna Kea

Gov. David Ige and President David Lassner have failed in their duty to uphold state law.

By Kekailoa Perry / August 24, 2019
Reading time: 6 minutes.

Recent media reports comparing Mauna Kea protectors to law breakers are inaccurate. A closer look at the issues reveal that state officials and Thirty Meter Telescope supporters may be conducting wrongful acts.

Like hustlers running a shell and pea con game, Gov. David Ige, University of Hawaii President David Lassner and the TMT are adopting the “rule of law” to influence favorable public perception and suppress the growing support for Mauna Kea Protectors.

The state of Hawaii Constitution is the law of the land. The state is duty-
bound to fairly administer the laws. There are at least three important constitutional provisions affecting the protection of Mauna Kea — Article I §4, Article XI, and Article XII §7.

Article I §4 resembles the US Constitution’s First Amendment. The article states that no law shall prohibit the “free exercise of religion” or abridge the “freedom of speech” and “peaceful assembly.” The freedom to worship God(s), express oneself, and peacefully gather are fundamental rights that must be fiercely guarded.

Yet, this week, Gov. Ige’s administration installed “no parking” signs along the saddle road enabling police to target protectors with citations. These same tactics were illegally used during the Jim Crow era and were considered anti-civil rights measures. UH Law Professor Ken Lawson describes the governor’s tactics as “bogus traffic laws” that will “trample on the First Amendment rights of Protectors and others to peacefully assemble and exercise their rights to free speech.”

Similarly, President Lassner created nefarious “waivers” and “surveys” that single out student and faculty supporters of Mauna Kea. The documents create an intimidating and hostile learning environment reminiscent of McCarthy-style black lists of the 1950s and ’60s. So much for the First Amendment.

Article XI §1-11 require the state to manage “All public natural resources...in trust by the State for the benefit of the people.” This provision is known as the “Public Trust Doctrine.”
In 2000 the Hawaii Supreme court reaffirmed the state’s Public Trust Doctrine. The court ruled, “the State and its political subdivisions shall conserve and protect all natural resources.” The court further ruled that “All public natural resources are held in trust by the State for the benefit of the people.”

Mauna Kea is precisely the Public Trust Lands that the constitution protects. Yet, the procedural history of the TMT is reportedly riddled with rule violations, a lack of adequate public consultation and procedural mishaps that show the state’s serious breach of the Public Trust Doctrine.

In Article XII §7 the state must “reaffirm and protect all [Hawaiian] rights, customarily and traditionally exercised for subsistence, cultural and religious purposes... subject to the right of the State to regulate such rights.”
In 1995 and 2000, the Hawaii Supreme Court “reaffirmed the State’s obligation to protect the reasonable exercise of customary and traditionally exercised rights of Hawaiians.” The court also held that Article XII §7 “places an affirmative duty on the State and its agencies to preserve and protect traditional and customary native Hawaiian rights, and confers upon the state and its agencies the power to protect these rights and to prevent any interference with the exercise of these rights.”

The Court’s 2018 Mauna Kea decision upheld Article XII §7 even when its conclusions wrongly favored duplicitous circumstances that supported TMT special interests. The Court ruled that “in order for the rights of native Hawaiians to be meaningfully preserved and protected, they must be enforceable.”

Yet, Governor Ige and President Lassner are using police to unlawfully obstruct Hawaiian constitutional access rights on Mauna Kea. In contrast, telescope employees are given unfettered access to the mauna but have no clear constitutional authority to be there. Essentially, the state and UH are granting special access privileges to the telescopes while skirting their duty to support Hawaiian constitutional rights.

Likewise, the university’s proposed Mauna Kea Management rules target protectors by curtailing access rights and penalizing Hawaiian practices with severe fines. Instead of protecting Hawaiian constitutional rights, President Lassner and the Board of Regents seem eager to look the other way.

Rights Of All Citizens

Articles I, XI and XII represent the supreme laws of the land. The “rule of
law” principle obligates the State to vigorously defend these constitutional rights. Somehow, Governor Ige and President Lassner have lost sight of this important responsibility when managing Mauna Kea.

The state and TMT assert that they are champions of the law. They want us to see the protectors’ peaceful resistance as unlawful. But, the state and TMT “rule of law” rationale discounts over 200 years of non-violent civil protest including the Boston Tea Party, Anti-Slavery, Women’s Suffrage, Japanese-American internment, the Civil Rights movement, the American Indian movement, the Me Too movement, and many other important civil disobedience events that make up the foundation of the “rule of law” in the U.S.

TMT’s current path seems determined to: infringe on Hawaiian rights and the Public Trust Doctrine, contravene legal rights of assembly and free speech, and flout the threat of police violence under the law. Clearly, the state underestimated the people’s love for Mauna kea and that miscalculation caused the road block. Thus, TMT supporters who insist on being victims must acknowledge that their perceived mistreatment is of their own making.

Governor Ige and President Lassner have an obligation to safeguard the constitutional rights of all citizens.

“When we are lawful, we can better appreciate the protectors and the value of kapu aloha.”
Unfortunately, the TMT development may be compromising the state’s ability to fulfill its trust responsibilities on Mauna Kea. When the state fails to protect the rights of its people, “we the people” must defend those rights by any peaceful means necessary.

The rule of law should not be a shell game of deception and manipulation for the politically powerful. The rule of law is an imperfect set of principles that should be respected and vigorously challenged.

Everyone has a duty to be lawful and protect the rights of every citizen, including Hawaiians. When we are lawful, we can better appreciate the protectors and the value of kapu aloha. We will see you on the Mauna.

Community Voices aims to encourage broad discussion on many topics of community interest. It’s kind of a cross between Letters to the Editor and op-eds. This is your space to talk about important issues or interesting people who are making a difference in our world. Column lengths should be no more than 800 words and we need a photo of the author and a bio. We welcome video commentary and other multimedia formats. Send to news@civilbeat.org. The opinions and information expressed in Community Voices are solely those of the authors and not Civil Beat.

About the Author

Kekailoa Perry

Kekailoa Perry is an associate professor of Hawaiian Studies at the University of Hawaii Manoa who holds a