

Indigenous Management Models and Protection of the Ahupua‘a

Luciano Minerbi

This article discusses Hawaiian contemporary management models based on the *ahupua‘a* (land division from the mountains to the sea) concept. It notes that Hawaiian resistance is concomitant with growing population and tourism pressure in Hawai‘i. It describes Hawaiian conservation values, the traditional ahupua‘a concept and its possible role in contemporary planning. The core of the article provides examples of ahupua‘a management models on various islands.

On Moloka‘i, the ahupua‘a concept inspired a master plan in ‘Ualapu‘e with ecological zones and informed an islandwide community effort to protect subsistence resources. This notion led to the formulation of environmental approaches and government decentralization that enhance indigenous management of subsistence fishing areas and ancient Hawaiian fishponds.

On Hawai‘i and Maui, grassroots Hawaiians, settling on Hawaiian Home Lands, have formalized master plans that are consistent with traditional practices and environmental protection. These plans propose an indigenous building code and the ahupua‘a concept. Such ideas are gaining more support in the community. The article concludes that the value of these management models is to promote indigenous autonomy, Hawaiian rights, and to contribute to the economic recovery in Hawai‘i.

Some Hawaiians object to the term “subsistence” because of its negative connotation of a sub-level type of living; instead, they see subsistence – more appropriately – as a preferred lifestyle, a way of life, and a vehicle to perpetuate the culture of their ancestors. They rather use the term “traditional practice.” However, subsistence has a positive and encompassing meaning when defined, as in the case of Moloka‘i, as “the customary and traditional uses [...] of wild and cultivated renewable resources for direct personal or family consumption as food, shelter, fuel, clothing, tools, transportation, culture, religion and medicine; for barter, or sharing, for personal or family consumption and for customary trade” (Matsuoka, McGregor and Minerbi 1994:2).

Historical Background

Population Pressure and the Hawaiians

The protection of Hawaiian culture and the island environment requires indigenous management approaches in a situation where the Hawaiians are a minority in their own islands now inhabited by 1,108,229 people. Hawaiians are a sizable population reaching 138,000 (12.5%) in 1990, according to the U.S. Census, or of 205,000 (18.8%), according to the State of Hawai‘i Department of Health Survey. Full-blooded Hawaiians are about 8,000 people (Office of Hawaiian Affairs 1994:8-14).

The population pressure in Hawai‘i is great. The State of Hawai‘i continues to plan land and infrastructure expenditures for a population level of 1,435,500 and 11.5 million tourist arrivals by the year 2010 (Minerbi 1994a:147). Immigration results in structural changes altering people’s ways and the landscape in the Islands. It is then urgent to protect Hawaiian culture, lifestyles, and subsistence resources while Hawaiians creatively engage landowners, developers, new residents and the government to recognize Hawaiians claims. There is a whole history of Hawaiians – and local people – resisting inappropriate development. Out of these struggles, indigenous management models have emerged (Aluli and McGregor 1994; Field-Grace 1994; Machado 1994; Minerbi 1994b:1-14; Nā Maka o ka ‘Āina 1994).

Hawaiian Conservation Values

Hawaiian management approaches are compatible with an island way to access the resources of the land and the sea, to permit an *‘ohana* (extended family) and an *aloha ‘āina* (love of the land) based lifestyle in the rural areas where Hawaiian culture has endured, bypassed by the plantation and the ranching economy. These Hawaiian rural communities are the cultural *kīpuka* (oases) from which the Hawaiian culture regenerates, as the native trees of the *kīpuka* propagate and, in time, re-establish the forest on the lava flow (McGregor 1993:49).

Hawaiian traditional conservation and management values are based on the respect of nature; regulation of land regime and access to resources; an indigenous knowledge base; search for balance and harmony with nature, and taking care of the land. These approaches are nurtured when Hawaiians are “guardians” of their ancestral places and do manage their land base. Traditional customs provide detail on what these values are, what they mean, and how they are carried out in practice. There are specific Hawaiian conservation values linked to a conception of nature as sacred and kin to the Kānaka Maoli, the Hawaiian people according to Burrows (in Minerbi, McGregor and Matsuoka (eds.) 1993:93-94):

- *Mana‘o‘i‘o* (faith, respect for nature)
- *Kapu* and *noa* (sacred and profane)
- *‘Ike* (knowledge)
- *‘Āina* (that which feeds)
- *Lökāhi* (unity, balance, harmony)
- *Mālama ‘Āina* (caring for the land)

Many Hawaiian values are still cherished and the family religion persists, including the cult of ancestors, *‘aumāku*, and the family sacred *pōhaku* (stones). Pele, Laka, and Lono cults endure; Makahiki rituals are also performed. As Hawaiians have opportunities to take care of the land, indigenous practices flourish. These developments are part of the so-called “Hawaiian renaissance,” an enduring Hawaiian lore: language, dance, religion, subsistence, and restoration of Hawaiian structures and places.

There is a set of coexisting factors that explain the Hawaiian renaissance. Many Hawaiians have always practiced their culture and subsistence ways in their rural ancestral lands. Other Hawaiians have learned traditional ways in their childhood, even if life-cycle events may have kept them away from these practices for some time. Many urban and rural Hawaiians have maintained their family relations so that learning of Hawaiian lore has been perpetuated in the network of kin between generations. There has been increasing networking among Hawaiian activists, scholars, intellectuals, politicians, and Hawaiian practitioners. There has been a continuity, a formalization, and an expansion of teaching Hawaiian things through formal programs, projects, visits to Hawaiian sites, and the restoration of ancestral places involving people of various age groups. These endeavors have provided access even to non-Hawaiians, particularly in the field of education. There has been a major effort to more accurately teach Hawaiian history, to explain the Hawaiian perspective and fight for Hawaiian rights. There is now a body of excellent video documentation on Hawaiian projects and struggles.

The Ahupua‘a Concept

The Hawaiian *moku* (islands) were divided in ancient times in large districts called *mokuoloko* (island divisions; inner areas), or *‘āpana* (a piece) or *‘okana* (portion), or *kalana* (released). The ahupua‘a (*ahu* (altar), *pua‘a* (pig)) was a smaller political subdivision used for the purpose of taxation or share-cropping among the *ali‘i ‘ai ahupua‘a* (the chiefs who eat the ahupua‘a) and the *maka‘āinana* (commoners, the eyes of the land), the people residing in the district and taking care of the land (Handy et al. 1972:46-49). The ahupua‘a and its water was managed by the *konohiki* (the land agent of the chief). Ideally the ahupua‘a were wedge-shaped districts dividing the island radially and running from the upland to the ocean.

The island was so divided to ensure that the ahupua‘a would provide to the maka‘āinana access to its many resources, according to three major ecological zones: 1) firewood, timber, birds, and plants of the forest in the “*mauka* (mountain) zone”; 2) planting of potatoes or dry taro field cultivation in the upland, and planting of irrigated taro *lo‘i* (pond fields) served by *‘auwai* (ditches) in the alluvial lowland areas of the *kahawai* (streams) and tree crop plantation such as breadfruit trees in the “agricultural zone”; and 3) fishing and shellfish, *limu* (seaweed) and salt gathering on the reef, including fish management in the many types of fishponds in the “coastal zone.” Hawaiians had specific names for these places such as the *wao akua* (spirits’ forest), the dwelling place of the gods and *wao kanaka* (men’s forest) where the tree-fern grows and where people farmed (Pogue 1978:10-12)

The ahupua‘a was further divided into *‘ili* or *‘ili ‘āina* (strips of land), assigned to the ‘ohana. The ‘ili could be all of one piece, *‘ili pa‘a* (complete), or it could be *‘ili lele* (separated, leaping) with pieces of land both near the sea and in the mountains. The intent was to provide the ‘ohana with access to the resources of the mauka and *makai* (seawards) zones, including planting opportunities for wet taro, dry

taro, sweet potato and yam, within the ahupua‘a. The ‘ohana then had a continuity of residence, cultivation and connection with the land within an ahupua‘a, that was passed on through generations. In certain cases, when resources existed only far away, an ‘ohana would have access to certain pieces of land located in another ahupua‘a. It is because of their persistence on the land for generations that many Hawaiians feel comfortable in taking the initiative for cultural restoration in their own ahupua‘a. On the other hand, they may be reluctant to do so for other districts; they feel that it is up to those Hawaiians residing there to decide. What emerges is a strong sense of identity with the place of residence based on the knowledge of its resources.

This view calls for an environmental management model decentralized at the level of the ahupua‘a, that requires the formation of a decision-making system based on the networks of ‘ohana of that district. Within the ‘ohana itself there are many ideas regarding the proper localization of activities within the ahupua‘a. Conceivably knowledgeable elders would state what is *pono* (right) according to tradition. But they would leave the younger couples to decide how to handle matters that might affect their future. A way in which Hawaiians can foster ahupua‘a based planning is to establish ‘ohana councils for all the ahupua‘a, including also those districts where non-Hawaiians reside or own land.

There is a recent precedent for these councils. Burial Councils have been set up by the State Burial Law passed in 1990. The Burial Councils are an example of government-decentralized decision-making at the island level, involving respected Hawaiian community leaders who are experts in cultural affairs. While the Burial Councils have islandwide jurisdiction, they are restricted to Hawaiian burial concerns; the ‘ohana councils instead could be based geographically, ahupua‘a by ahupua‘a, and embrace all cultural practices. In fact Ahupua‘a Councils are being established in Wai‘anae. Hawaiians are able to assess the environmental conditions and the general character of the area, including the *wahi pana* (noted, celebrated places), thus influencing site use. Additional steps include archaeological surveys and records, and reviews of oral history, land documents and plans such as those, notable ones, summarized below.

The Moloka‘i Case Study

Ahupua‘a-Based Planning on Moloka‘i

The plan for the ‘Ualapu‘e ahupua‘a on Moloka‘i, encompassing 1250 acres, recognized the ahupua‘a in its cultural and ecological dimensions. The plan addressed East End residents’ traditional lifestyle and looked at small-scale sustainable economic activities. It investigated the ahupua‘a in its mauka-makai zones and plant habitats. It noted the changes over time from planting to pasture and shift in settlement patterns. It called for the management of archaeological sites, restoration of production of the taro patches and the fishponds, increase in agricultural production, tree crops and reforestation. The plan proposed control of soil erosion by abandoning use of the uplands for pastures and suggested proper sanitation in existing residential areas. It mapped the location of what was considered suitable development projects to be undertaken within the three ecological zones of the ahupua‘a: a coastal zone for small businesses and aquaculture development and planting; and two mauka zones for planting and for soil erosion control (Wyban 1990). Such a plan is consistent with a Hawaiian conception of planning because of the desire to protect ancient sites and to locate new activities that would employ local people by ecological zones.

Protecting Hawaiian Subsistence

Government decentralization may result in the indigenization of resource management. On the island of Moloka‘i, there was concern for the decline of subsistence resources, and community pressure led to the setting up of a Governor’s Task Force in 1993 to look at subsistence policies on Moloka‘i (Matsuoka, McGregor, Minerbi and Akutagawa 1994:4-14). The Task Force used a multi-method approach. It administered a random sample telephone survey of Moloka‘i residents; it conducted focus groups with Hawaiian subsistence practitioners in five communities; it concluded each community meeting with a participatory exercise to map the location of subsistence sites to protect; it conducted a focus group with commercial fishermen; it met monthly for one year to review findings; it developed recommendations and presented them to a community-wide meeting. The Task Force concluded that the decline of subsistence resources was due to inappropriate development, monocrop agriculture, and

ranching. Commercial fishing and hunting was excessive, making over-harvesting of marine resources a significant problem. People from other islands were competing over the use of resources on Moloka'i.

A random sample telephone survey conducted on Moloka'i in 1994 indicated that 28% of the food was acquired through subsistence. Hawaiian families obtained more of their food through subsistence activities than families of other ethnic groups, about 38%. It was concluded that subsistence was important for cultural and practical reasons and as a means to obtain good food not readily available. The prevailing concern was about diminishing subsistence resources for future generations. Community-wide acceptance of traditional Hawaiian subsistence values and practices would be key to restoring a balance. There was a need then to teach and practice Hawaiian environmental principles to have subsistence and commercial users take more responsibility for what they do (Matsuoka et al. 1994:43,61-64).

Hawaiian subsistence principles for Moloka'i include "do not take too much," and "replant" into the wild or "restock" bays, streams, and fishponds to increase fisheries resources. It was found that customary Hawaiian access to subsistence sites needs to be restored. Conversely, access to certain sites can be regulated. Vehicles can be restricted with gates to allow only foot trails, ensuring that one takes out only "what one can carry" in one's hands from sensitive areas. The action plan proposed by the Task Force called for improved access and protection of subsistence areas, education on how to gather, amendments to fishing rules and appointment of a Moloka'i Subsistence Advisory Committee.

Community-Based Subsistence Fishing on Moloka'i

The response of the State of Hawai'i Legislature was Act 271 (1994), that created a process for designating "community-based subsistence fishing areas." Hui Mālama o Mo'omomi, an association of Hawaiians from the Ho'olehua Homestead area, sought such designation for Mo'omomi Bay on the north-east shore of Moloka'i, because commercial harvesting by non-residents was depleting the fishing resources of the bay. The purpose was to sustain conservation activities through native Hawaiian practices in an area of 847 acres in collaboration with government agencies (Hui Mālama o Mo'omomi 1995:17-18). There was a perception that community representatives can be involved in monitoring and enforcement, relieving the government of such costs. The plan called for: (a) sharing of management tasks; (b) training of community volunteer resource managers to monitor fishing activities; and (c) education of novice fishermen in sustainable fishing methods. Basic themes included: (a) marine species' life cycles; (b) knowledge of fish behavior and aggregation, recognition and protection of *ko'a* (fish houses); (c) code of fishing; (d) spirituality and kinship with nature; (e) holistic understanding of the environment (Hui Mālama o Mo'omomi 1995:5,20-26, App. E).

In conclusion, the rich subsistence resources on Moloka'i are diminishing because of the pressure exercised by off-island people and those Moloka'i residents who do not follow the traditional practices. There are multiple issues to address: dealing with off-island people, Moloka'i residents, and commercial and subsistence fishermen. A proposal called for the government to educate and regulate off-island sportsmen and commercial fishermen, and for the Moloka'i community to deal with the Moloka'i residents.

Under this proposal, kapu can apply to certain types of fish, or to juvenile fish, or to certain periods of time, such as during the spawning seasons. Kapu can also be applied to a geographic area per a specific period to replenish the fishing stock and protect marine organisms and their habitat. The question is the culturally appropriate type of enforcement of the kapu. Hawaiians prefer to not criminalize offenders, not levy fines, but exert peer pressure, persuasion, and education. They consider important the authority of the *kūpuna* (elders) in enforcing the kapu through appropriate ways to make restitution to the community by the kapu breakers. Regulatory power of the state must first be devolved to the community level.

Fishpond Restoration on Moloka'i

There are about 74 ancient Hawaiian fishponds and fishtraps on Moloka'i. Many can be restored for historic, cultural, spiritual, and economic reasons, and for the perpetuation of subsistence practices. In 1992, a strong community support for this restoration was instrumental in the formation of the Governor's Task Force on Moloka'i Fishpond Restoration. The Task Force concluded that there were difficulties for 'ohana groups to access, repair, and use the fishponds that are owned by the state or by private landowners. Restoration requires complex and expensive permits and lease agreements. The Task Force, therefore, recommended the establishment of a Moloka'i Fishpond Commission to ensure

coordination to restore two fishponds per year, starting with two demonstration projects, Kahinapöhaku and Honouliwai (Wyban 1993). Stewardship was to be entrusted by the state to ahupua‘a tenants (also called *hoa‘āina*, friends of the land) or those who have established customs, use, practices, and traditional rights of access. It was further recommended to streamline the permit system to favor fishpond restoration.

Differing views existed between Hawaiians and government agencies. Hawaiians wanted to restore fishponds through ‘ohana based initiatives; to use modern equipment for silt removal and repair of the stonewalls; to reinforce and expand the stonewalls; and to remove the mangroves (a non native plant). Government agencies were concerned about protecting the “pristine conditions” of the ancient ponds; the on-site navigable rights; the bird habitats; the water quality and beach public access. In February 1995, the Department of Land and Natural Resources (DLNR) granted a Master Conservation District Use Application permit to 12 state-owned fishponds that stood the test of restorability for wall footprint, availability of rocks, silt, habitat, and navigational servitude (University of Hawai‘i, Department of Urban and Regional Planning 1993:288). This permit spelled out the tasks that the ‘ohana group must undertake for the reconstruction and operation. In addition Housing Bill no. 1763 (State of Hawai‘i 1995) exempted the Hawaiian fishponds from the Environmental Impact Law, subject to certain modalities. The bill required DLNR to assist in the permit and restoration process and the Department of Health to process water quality certification expeditiously.

Promoting Subsistence Homesteads

King’s Landing (Hawai‘i) and the “Kanaka Code”

A Federal-State Task Force in July of 1982 recommended to Department of Hawaiian Home Lands (DHHL) alternative development models to “on-grid” infrastructural development and to traditional county subdivision to accelerate granting leases on raw lands to DHHL beneficiaries (Ka ‘Ohana o Kahikinui 1993:2). But in June 1995, there were still 27,545 Hawaiian applicants statewide.

Some Hawaiian groups had already settled on their own on DHHL lands at King’s Landing, Keaukaha Tract II, South of Hilo on the Big Island, taking advantage of the anchialine ponds, the fishing and the gathering of ‘*opih*i (shellfish) and limu. But they were served eviction notices by the DHHL in the late 1970s and early 1980s. However, in 1984 they were able to sign a “right of entry” agreement. To obtain a land lease, Mālama ka ‘Āina Hana ka ‘Āina (MAHA), the community association of the sixteen families living there, developed a Hawaiian vision of land use and subsistence occupancy. This plan entailed fostering Hawaiian culture, protecting Hawaiian sites, sustaining ecological balance, engaging in substance education, and obtaining long-term leases.

The plan called for alternative homesteading, aquaculture development and a land bank for community-based economic activities on 800 acres of land. It codified an approach to family and community self-sufficiency based on the skills of current residents and it proposed a “Kanaka Code” (People’s Code) as an alternative to county standards. Inspiration came from the historical knowledge of the wahi pana in the area, off-grid systems, and low technologies. The proposed land uses were more detailed than the state zoning and consistent with Hawaiian practices. Homesteaders would attain self-sufficiency gradually going through various development phases. Guidelines addressed allowable uses, proper siting, monitoring of activities, management, and enforcement to protect the integrity of the ponds while allowing non-harmful uses.

Kahikinui (Maui) and the “Kuleana Program”

In 1993, Ka ‘Ohana o Kahikinui, an Hawaiian group of about 45 people on Maui, developed in 1993 a land use plan to manage and restore the land of DHHL in Kahikinui in South Maui that the ‘ohana had occupied for some time. The ahupua‘a of Kahikinui owned entirely by DHHL with many historical, cultural and subsistence resources (Matsuoka, McGregor, Minerbi, Kelly, Barney-Cambell and Kanahale 1996). The ‘ohana objective was to settle DHHL beneficiaries with long-term leases and to involve them in taking care of the land. The plan of the ‘ohana was significant because it was based on the ahupua‘a and on the ‘ohana concepts. The 22,800 acres of DHHL were planned according to the mauka-makai ecological zones of the district (Ka ‘Ohana o Kahikinui 1993:4-6):

- The Forest Zone (7300 acres).
- The Reforestation and Horticultural Zone (2000 acres).
- The Pastoral Lots Zone (4000 acres).
- The Self-Sufficiency Homesteads (4000 acres).
- A Community Center Area (500 acres).
- A Makai Access Area (250 acres).
- A Cultural Land Management Zone (4500 acres).

The land use proposed by the ‘ohana allowed every homesteader access to the mauka-makai resources of the ahupua‘a. It differed from the one prepared by the DHHL consultants that would have located the homesteads in only one part of the parcel, 2500 acres, with a substantial middle portion, 6,000 acres, reserved for general leases to outsiders, thus reducing the amount of land available to Hawaiians. The mauka portion of the parcel would have been allotted to forest reserves for 8600 acres. The cultural resources area, 5700 acres, would have been used for future homesteads, thus encroaching on the integrity of the coastal archaeological sites. The agency, against ‘ohana desires, left open the specific location of the homestead use and general lease use throughout 500 acres (DHHL 1993). In 1994, DHHL, while still reviewing the ‘ohana plan, granted, subject to indemnification to avoid liability, a “right of entry” to the ‘ohana to practice Hawaiian culture and protect native plants. Meanwhile some progress had been made on road clearing, survey and staking of lots, building some homes and issuing a 15-year license to the Living Indigenous Forest Ecosystem (LIFE) group to manage a most innovative ecosystem reforestation program mauka on 5000 acres at Kahikinui. This program included water catchment using the lingering clouds at higher elevation, enclosures of native plants, eradication of non-native weeds, and elimination of feral goats (Kahikinui Forest Partnership Working Group 1995:6-11).

In 1993, DHHL discussed the conceptual approval of the proposed Kuleana and Lualima Programs (Soon 1994). The Kuleana Program, inspired by the Kanaka Code, allowed beneficiaries on the waiting list to choose raw land, with no infrastructure and only a coarse road provided for access; the Lualima Program allowed beneficiaries to select raw land and provide their own infrastructures, but had them commit up front financial participation. The Kuleana Program awarded 99 year leases to homestead applicants without any modern or other conventional “on-grid” utilities. It needed a community-based process to operate within the DHHL guidelines for including health and safety, building standards and lease agreement provisions. Homesteaders were to build their own homes, furnish their own water, energy, communication, and waste disposal via septic systems and dry composting toilets. Lot sizes ranged from 2 to 20 acres, with one dwelling per lot plus one additional ‘ohana housing unit. *Kauhale* or dwelling compound for the extended family was permitted; lessees could develop their own standards via a community based process to include protection of native plants, flora, fauna, and archaeological resources. Wherever possible, land-use development was to be consistent with government requirements and ahupua‘a principles. Minimum project size was 300 acres (DHHL 1995).

An opinion by the State Attorney General recommended that the government not approve the Kanaka Code, probably because of liability concerns; but that the homestead association could link-up with a licensed architect to sign off the project’s health and safety standards. The homestead association could then administer its own permit system, monitoring compliance of individual members, without having the county and the DHHL involved in the process. The government seemed now more open to community-based plans, but the burden to develop culturally compatible and affordable solutions remained the initiative of Hawaiians.

Protection of the Ahupua‘a and of Hawaiian Rights

There are many Hawaiian groups focusing on the restoration of the ahupua‘a, and the idea is gaining support. A statewide Ahupua‘a Action Alliance also advocates the protection of the island environment. This grassroots coalition of environmental and Hawaiians organizations is in partnership with the Sierra Club Legal Defense Fund’s Hawai‘i office. Their approach is public education, political action and litigation. The effort is on restoring the balance between Hawai‘i’s fragile coastal and watershed environments and their inhabitants (Eoff 1995). There is also a Hawaiian characterization of the task: through the ahupua‘a runs the life-blood of the ‘āina – water. No water, no life for the ‘āina. No water, no *mana* (power) in the ground – the god *kalo* (taro) is not nourished. No water, no consecration (the *hi‘uwai* ceremony). Stream wellness is for sacredness and balance ... So ahupua‘a signifies

wholeness, wellness – a microcosm of the balance between Wākea (heaven) and Papa (earth) (Cruz 1996).

An understanding of Hawaiian customs, practices and indigenous rights in the context of the ahupua‘a is also required in the application of the law in Hawai‘i. These rights are only partially addressed by State of Hawai‘i laws. Nevertheless, there are several laws recognizing Hawaiian rights for subsistence, cultural and religious purposes. The Hawai‘i State Constitution and the Hawaii Revised Statutes (HRS) affirm the state’s obligation to protect ahupua‘a tenants’ rights. These rights address a limited number of gatherings, the right to water use, and the right of access. Access includes use of ahupua‘a trails, mauka-makai trails, mid-elevation trails and shoreline and circle-island road trails. The HRS underlines that Hawaiian usage has precedence over the Common Law of the State, recognizes ahupua‘a tenants’ rights to include taro cultivation and propagation on one’s own *kuleana* and the gathering of *hihiwai* (snail), *‘ōpae* (shrimp), *‘o‘opu* (fish), limu, thatch, ti leaf, *aho* cord, and medicinal plants. The HRS also protects unmarked burial sites (Territory of Hawaii 1900; State of Hawai‘i 1988, 1990).

The State of Hawai‘i Supreme Court in the Kalipi Case (1982b) ruled that an ahupua‘a tenant may enter underdeveloped lands within the ahupua‘a to gather. In the Pele Case (1992), it extended Hawaiian gathering rights outside the ahupua‘a of one’s residence where such rights have been customarily and traditionally exercised. In 1993, in the Public Access Shoreline Hawai‘i (PASH/Kohanaiki) Case, the Intermediate Court ruled that government agencies must establish whether gathering rights were exercised on a property that might be developed and should explore ways to preserve these rights (while avoiding harm). The Hawai‘i Supreme Court (1995) upheld this ruling. Religious rights are protected by the Hawai‘i Constitution (State of Hawai‘i 1989), but the State of Hawai‘i Supreme Court posed stringent tests to establish infringement on religious practices (1982a), and significant harm on the practice (1988). Water rights include “appurtenant or kuleana water rights” for former taro land adjacent to natural water courses and “riparian rights” for other land near natural water courses. These rights “run with the land.” Those who qualify for Hawaiian Homes Lands have special rights recognized in the HRS. The State of Hawai‘i Water Code also recognizes the Hawaiian water rights (McGregor 1996; McGregor, Murakami and Lafaele 1993:113-52).

Conclusions

Population pressure and immigration are changing both Hawaiian ways and the island environment. More protection can be achieved with Hawaiian conservation values and planning ideas based on the integration of traditional ahupua‘a district planning with modern watershed and ecological planning. Hawaiian groups and organizations have proposed or pioneered such integration on certain sites of the Hawaiian islands for the protection of subsistence resources and practices, for the creation of marine sanctuaries, for the restoration of fishponds, for the planning and restoration of the ahupua‘a, and for the settlement of Hawaiian homesteaders and ‘ohana groups. Concepts of indigenous planning and indigenous codes, departing from current government rules, have emerged and are now being re-visited by the government or the courts.

The determined and relentless exercise of Hawaiian cultural practices by individuals and ‘ohana groups in spite of many odds, and the support given to them by coalition organizations, have certainly engaged the public and private sector to some extent.

The State of Hawai‘i’s belated response in the cases described above is a limited recognition of Hawaiian lifestyles and rights and a way to minimally accommodate Hawaiian concerns. However, Hawaiians are obtaining some form of recognition and they are benefiting from decentralization of decision-making in these projects. To the extent that such lifestyles are carried out, they are also an exercise of indigenous autonomy and human rights, and can be supported and replicated in many places. In the end, Hawaiian customary and subsistence rights should be recognized as pre-existing “easements” to be respected on properties regardless of the stage of land development. Encouraging Hawaiians to develop affordable, technologically appropriate, culturally compatible, environmentally sensitive homestead projects should be an attractive and basic element in the economic recovery of Hawai‘i. These solutions can, in fact, be models for sustainable development in other parts of the world.

Note

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