MĀKUA VALLEY

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Ileana Haunani Ruelas

Thesis Committee:

Patricia Steinhoff, Chairperson
Ibrahim Aoude
Kalei Kanuha

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ABSTRACT

This case study aims to contribute to scholarship on social movements, and the application of these concepts to Hawaiʻi's political history. Mākua Valley has been occupied by the military since World War II, and has been a widely contested area of land located on the west side of Oʻahu, Hawaiʻi. I present a case study of a long-term land struggle at Mākua Valley within the context of competing frames between the Army and the proponents of stewardship change. Through this paper, I examine the different stages of the struggle at Mākua over an eight-year period (between September 1998 and December 2006) through media content and personal narratives. Over the course of time, this particular movement demonstrates the role of the media in presenting selective frames, the development of legal strategy as a means to achieve social movement objectives, and the impact of changing political opportunities on processes of change (9-11).

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LIST OF ABBREVIATIONS

25th ID – 25th Infantry Division Light, Schofield Barracks – the Infantry Division responsible for maintaining the training grounds at Mākua

ASFC – American Friends Service Committee

CALFEX – Combined Armed Live Fire Exercises

DOD – Department of Defense

USFWS – U.S. Dept. of Fish & Wildlife Services

DSEIS – Draft Supplemental Environmental Impact Statement

DU – Depleted Uranium

EA – Environmental Assessment

Earthjustice – Earthjustice Legal Defense Fund, Sierra Club Legal Defense Fund

EIS – Environmental Impact Statement

ESA – Endangered Species Act

FONSI – Finding of No Significant Impact

HuiMOM – Hui Mālama o Mākua

IBCT – Interim Brigade Combat Team, OR SBT

Mālama – Mālama Mākua

MMR- Mākua Military Reservation

OB/OD - Open Burn Open Detonation Sites

O4S – October 4, 2001 Settlement

SBT - Stryker Brigade Transformation

SEA - Supplemental Environmental Assessment

SEIS – Supplemental Environmental Impact Statement

TRO- Temporary Restraining Order

UXO – Unexploded Ordnance

PREFACE

"ka wā ma mua, ka wā ma hope"

This is an ʻōlelo noʻeau (word of wisdom) which originates from a collection of proverbs compiled by Mary Kawena Pukui. Translated the ʻōlelo noʻeau means that the time in the front of us - is the time that is behind us. Essentially it implies that we move into the future, facing our past. This saying indicates that the future and past are intimately connected. This philosophy is the foundation of my interest in understanding the stories of Mākua, and the struggle over stewardship.

Ms. Pukui was an ethnographer, a scholar, a composer, a hula expert, and an educator. She gathered stories and chants and gained an understanding of diverse cultural practices by building relationships and listening to stories. Through her dedication she was able to pass on the rich knowledge contained in oral traditions.

If the complexity that we face is our history, an analysis of history provides a pathway to wisdom for weighing decisions and forging direction in modern contexts. There are countless stories within which important figures prominent in Hawaiian cosmology and history, seek to address instability, conflict, or restoration through listening to or offering a chant. The content of the chant sometimes included lineages of places, relationships, or seasons of time – which are genealogies of stories. Sometimes chants were made in the midst of travels upon encountering resistance, approaching a path that seemed to be blocked, or experiencing a situation that appeared insurmountable. Chants used the power of words to recall ancestral knowledge, and contained faceted histories of choices and the relationships connected to decision-making.

Chants are a form of storytelling, transmitting purposed knowledge, and guiding future pathways for action. Stories contain the intimacy or estrangement of relationships, perspectives, motives, and the process. Stories have power contained within them to address patterns of reconciliation, decision-making, and resolution.

The act of storytelling – whether it includes ideas, struggles, or genealogies – creates possibilities to collectively inform communities about arenas for participation. Stories of the past help shape perception about future involvement in work, and provide an insightful starting point that helps us make sense of the present. I chose to study Mākua via stories because of the strength of storytelling to highlight, guide, and shape platforms for participation.

CHAPTER 1. INTRODUCTION

This thesis contributes to scholarship on social movements, and the application of these concepts to Hawai‘i's political history. Through this paper, I present a case study of a long-term land struggle at Mākua Valley within the context of competing narratives between the Army and the proponents of stewardship change. I've documented and analyzed the histories of resistance present within this contemporary community struggle to exert change in land stewardship through media coverage and personal interviews.

The experiences of community members, activists, and allies at Mākua provide the framework for addressing a growing body of conflict between the U.S. Army and movements towards greater autonomy over resources currently controlled by the U.S. Army (i.e. land, cultural sites, environmental resources). These movements include indigenous peoples' assertion of custodial primacy, actions to re-establish independence/sovereignty, and efforts to redress perceived economic, social, and political exploitation due to historical injustices. Alternative narratives serve as resources that empower people to persist in long-term commitments to facilitate the return of land to community control.

I examined the different stages of the struggle at Mākua over an eight-year period (between September 1998 and December 2006) through media content and personal narratives. Over the course of time, this particular movement demonstrates the role of the media in presenting selective frames, the development of legal strategy, and the impact of changing political opportunities on processes of change. I primarily explored the work of four groups within this struggle: Mālama Mākua, Hui Mālama o Mākua, Earthjustice, and the U.S. Army. Amongst proponents of change in stewardship, competing frames created variances in strategy, proposed goals, and actions. Shifting political opportunities constrained and enabled the adoption of differing frames that justified the selection of particular courses of action.

Within my analysis, I focus on three dimensions of sociological interest that can be observed in this movement. This research displays differing frames available in media portrayal and storytelling – that highlight the importance of access to resources – in garnering support for group claims. It traces the effects of the legal strategy for achieving movement objectives, and discusses the influence that this work has had towards activating the involvement of political representatives. And this study examines the influences that 9-11 attacks and subsequent framing transformations had on processes of change at Mākua.

The prominent features of the resistance at Mākua included the capitalization of perceived legal opportunity, the activation of political officials in responding to the legal strategies via issue visibility in the print media, and the development of adaptive framing during seasons of political vulnerability. It is these three tactics that appear to have advanced the initiatives of the resistance movement. The broad framework of land and cultural stewardship connected the Mākua struggle to a base of supporters that spanned from political activists, to environmental legal organizations, cultural practitioners, and Hawaiian Sovereignty advocates. This broad base of interest groups also carry varied ideas about defining success in movement goals and the role of compromise in the struggle. The politicization of the movement promoted state and federal government involvement, widened possibilities for media coverage, and increased public awareness of the issue through information dissemination. In this case, the adoption of legal strategy by one group – both strengthened and weakened the capacity of movement actors to create polity change. Increased media coverage due to legal endeavors both constrained and enabled the building of larger pathways for activists to access cultural, political, and social resources for the movement.

In light of globalization, a growing consciousness of the impact that colonization has had across many nations is mobilized through protest and demands for reparations in various forms.

Efforts to wrestle with land rights issues, and the Army's stewardship of land - are a dimension of the sovereignty movement in Hawaiʻi. Within the movement there are a range of political stances that span from proponents of Hawaiian independence from the U.S. to comparatively moderate objectives of procuring reparations through land/monetary compensation. Advocates of land reparation have found common allies in organizations that support demilitarization.

This topic is sociologically important because it examines the unique situation in Hawaiʻi, and provides insight into dynamics that occur in other reparation movements. This project elaborates on litigation and narrative framework as a means to apply political pressure, and create avenues for challengers to access and affect the domain of national security within the context of Hawaiʻiʻs economic dependency on military investment. The social movement at Mākua serves as a case study to consider the unique role that litigation can play in increasing frame prominence, and setting agendas for governmental officials regarding land disputes.

This project is historically significant because it develops a case study of a more moderate form of the decolonization movement that addresses land tenure reform through changes enacted within the confines of the legal process. It can be argued that this process of solidifying land reform within the legal structure could be a gradational step towards a more liberal agenda of creating independent nationhood, but this is beyond the scope of this paper. This topic relates to the process of land reparation from the U.S. Army, and studies the sensitivities and complexities of colonial legacies in modern societies.

1.1 Background: Story of Place

The Mākua military reservation extends over three verdant valleys, between Waiʻanae and Kaʻena point on the island of Oʻahu. It is home to over 45 rare and endangered species of endemic flora and fauna, is the setting of Hawaiian creation stories, and contains over 100 identified archaeological sites that are living links to Hawaiian cultural practices (Henkin 2008).

These cultural sites include an agricultural temple, burial temples, fresh water springs, and fishing shrines. The valleys are covered with terraced landscaping which suggests that they were a part of a highly developed agricultural subsistence system that produced sweet potato, yams, and kalo for the west side of Oʻahu. Mākua beach is used for the gathering of limu (seaweed) that is used in local Hawaiian delicacies. The shores of Mākua are also a base for fishermen and coastal families to gather varieties of shoreline fish that include pāpio, kawakawa, and weki. Deep sea fishing in Mākua's waters would yield mullet, ʻahi, aku, marlin, mahimahi, and ono.

These valleys, primarily referred to as Mākua, have been the center of a debate over public land use between community interest groups and the United States military. The expansive depth of Mākua's physical geography and cultural wealth mirrors an equally rich historical landscape of cultural, political, and economic struggle that surrounds it today. At present, this struggle has spanned the length of seventy years. The story of the Mākua is a single thread in a larger unraveling history of Hawaiʻi. Thus the contention regarding the uses of the valley parallel the broader changes in land tenure that took place through dynamic shifts in political, economic, and cultural autonomy in Hawaiʻi.

Land tenure in Hawaiʻi is complicated because of transitions that occurred in modes of governance and the antagonistic nature that facilitated many of those conversions. Between 1778-1959 Hawaiʻi went through range of changing government rule that spanned from monarch rule to democratic statehood. Intermediary steps included the highly controversial conversion of the government from a constitutional monarchy to a self-appointed oligarchy by means of an illegal overthrow, and it was this provisional government that facilitated the further transition of Hawaiʻi from a territory to a state in 1959.

Tracing this transformation is key to understanding the use of the valley today because against the backdrop of these changes measures were put in place that effectively changed relationships to the land (ʻāina), and limited public access to the land at Mākua. In literature published on the cultural history of Mākua, Marion Kelly & Nancy Aleck (1997) explain that by 1850 few land awards were given out for its use, and the rest of the land was retained as, "Government Land that was leased out by the government for ranching"(Kelly and Aleck 1997:4). As the leases to the land were reserved for ranchers, by 1897 the land was eventually owned by Lincoln McCandless a major landowner on Oʻahu. McCandless was also known for the strategic measures he took in dispossessing native tenants from land, in order to accumulate

larger tracts of land for ranching to flourish. In the 1920's notices of condemnation of land were served to Mākua residents, so that the military could acquire parcels of the valley for howitzer emplacements (howitzers are guns that fire shells at high elevations for short range targets). By 1929, the military practiced amphibious landings on the coast of Mākua.

The military presence expanded in 1941, shortly following the attack on Pearl Harbor. At this time 6,600 acres of Mākua, and the entire island of Kahoʻolawe (28,800 acres) was confiscated by the U.S. Army for use in target practice, and preparing combat troops for America's participation in World War II. These events precipitated the forceful eviction of the remaining residents and ranchers in Mākua Valley. In 1943 an effort to maintain control over the land was put in place by the Territory of Hawaiʻi that set temporal limitations on the military use of the valley up to six months after the conclusion of the war. However, when the war ended and the territorial governor petitioned for a return of the land, this request was refused (Aila 2008). In 1959, the Statehood Admission act made provisions, "for the federal government to reserve land for military purposes" (Kelly and Aleck 1997:9). President Johnson formally reserved Mākua as a military reservation in 1964, and a 65-year lease was awarded to the Army (Johnson 1964). The terms of the agreement provided access to approximately 4,200 acres for the cost of $1.00 that paid for the entire duration of the lease (Kelly and Aleck 1997:9). At this time 2,400 acres were returned to the state, and the "coastal area was granted from the federal government to the State as a public trust and allowed for public access and use, except when training activities would present a danger" (Kelly and Aleck 1997:9). The 25th Infantry Division Light (25th ID), based out of Schofield Barracks on Oʻahu, was assigned the responsibility of maintaining the training grounds.

Public challenges to this agreement were not recorded in local newsprint sources, the Star-Bulletin or in the Honolulu Advertiser. According to every storytelling source, beneath the surface, under the veneer of acquiescence with the military control of the land, were many efforts to facilitate the return of Mākua (Aila 2008; Dodge 2008; Kajihiro 2008; Rodrigues 2008). These included family letters requesting the return of their lands, formal petitions from the Territorial Governor of Hawaiʻi, and community protests of marine landings.

An important formation in consciousness and collective identity began in the 1970's with the Hawaiian Cultural Renaissance. During this renaissance there was a resurgence of intellectuals, artists, and activists who openly challenged the controversial nature of Hawaiʻi's

transition to statehood, and the military land seizures that accompanied this change. The renaissance aimed at revitalizing Hawaiian modes of knowledge, and practices for relating to/maintaining language, culture, and ʻāina (land). During this time proponents of social change began to create resources for analyzing and deconstructing the relationship between Hawaiʻi and the United States, and for recovering land by studying land tenure. It also appears that during this time a growing political consciousness led many to engage in resistance activities over land. These conflicts usually took place in direct opposition towards state plans for land development or military use of land. Examples of these land movements included the Kalama Valley farmer resistance, Waiahole-Waikāne farmer resistance, the Sand Island/Mokauea struggle, the Kahoʻolawe struggle, and the movement for the return of Mākua Valley.

After reviewing newspaper indexes, it appears that protests regarding land use at Mākua were first recorded in the local newspapers in 1971. Resistance efforts at Mākua were provided limited media exposure throughout the next two decades, and encountered minimal state or Army response to their work. During this time two Mākua interest groups, Mālama Mākua (Mālama) & Hui Mālama o Mākua (HuiMOM) were formed. These collectives maintained alternative stories of Mākua pre-military use, continued to maintain relationships to the ʻāina through Hawaiian cultural practices, and created alliances with groups that critically analyzed the impacts of military use of land in Hawaiʻi (i.e. American Friends Service Committee, ʻĪlioʻulaokalani).

One of the items under contention included the potential hazards that military live fire training caused to the community. From 1990- to mid-1998 – over 270 fires had been documented at Mākua. The training and the corresponding fires represented ongoing threats to the surrounding community, environmental resources, cultural resources, and endangered species. In the September 1998, a misfire during live-fire training caused a large fire that covered 800 acres at Mākua. The Army was prompted to voluntarily suspend these activities. This event was the first significant response by the Army to resistance efforts, because it caused a change in previously planned training activities.

In the same month as the great fire -two legal cases were initiated by Mālama with the support of Earthjustice Legal Defense Fund (Earthjustice). The cases cited the lack of compliance with federal regulations and outlined the hazards of fires caused by training. The aim of the court arguments were to compel the Army:

- to submit to federally mandated consultations with the U.S. Dept. of Fish & Wildlife Services (USFWS),
- to cease live-fire training and commit to the completion of an Environmental Impact Statement (EIS),
- and to make future decisions regarding the use of the land based on the findings of the EIS.

These legal battles effectively proscribed Army live fire exercises at Mākua for the next three years, and elevated the issue to a higher profile in local and national media treatment.

The next critical landmark in the history of land use at Mākua came shortly after the events of September 11, 2001. In response to the national emergency, Army and resistance movement leaders convened to discuss a compromise in light of the circumstances, and the nation on the cusp of preparations for war. This compromise (O4S) was finalized on October 4th of the same year and outlined several provisions for each party. One of the key components of the settlement was that the Army agreed to complete an environmental impact statement (EIS). In the case that the EIS was not completed within 3 years, the Army agreed to cease all live fire trainings until the final report was finished. In exchange, the Army received permission to resume training immediately, and live-fire training resumed on October 17, 2001. Other concessions were made which granted the public regular monthly access to Mākua, allowed the observation of live-fire military exercises by the public, created mandatory provisions of Army clean-up standards of unexploded ordnance found on-site, and ensured that additional environmental, archaeological, and cultural studies requested by Mālama would be done. Media coverage that emphasized the necessity of Mākua for national security, military readiness, and war preparation began to proliferate during this time.

Due to complications with satisfying the requirements of the O4S, the military has been unable to return to live fire training at Mākua since 2004. One of these factors included the section that required the completion of the EIS by October 2004. After the lapse of the October 2004 deadline for the completion of the EIS, all training ceased, and legal maneuvers to bypass the guidelines of the O4S were begun by the military. Some of these included direct appeals to the federal court to resume training while completing the EIS, and DOD efforts to bypass major environmental regulations via Congressional legislation. Each appeal was met with lengthy litigation that eventually reinforced the terms of the O4S. After seven years of struggle

to return to training without completing the requirements of the O4S, the retiring Lt. Gen. Benjamin R. "Randy" Mixon made a formal announcement to voluntarily suspend live fire training at Mākua (Army Times 2011a). Yet five months later, the incoming Lt. Gen. Francis J. Wiercinski announced that he would consider reopening live fire at Mākua if the construction of new ranges were delayed for any reason – which could include a protracted EA/EIS process, community challenges, court cases, federal funding, or construction contracts (Army Times 2011b).

The future of Mākua continues to hang in the balance. Power struggles remain over the validity of differing claims to the land. The military lease for land use at Mākua expires in 2029, and live training has not occurred at Mākua since 2004 due to unfulfilled legal obligations. Former land struggles at Kaho'olawe point to the possibility of congressional legislation that would be able to formally return the land to the State of Hawaiʻi. The decision-making processes are unclear, and it is important to look to the larger movement of the past to understand present avenues for social change.

1.2 Background: Story of People

The struggle over land at Mākua has spanned the course of seventy-two years, and began in 1941. It has endured during the post-9-11 period when military expansion became a prominent feature of land use and remains unresolved to this current day. The media has covered some of the content of the conflict, pieces are recorded in legal documents formally recognizing land use agreements, and much of it is retained in the fading memories of social movement participants who have passed on or who continue to pass on their stories to the next generation.

There are six main parties involved in the struggle over stewardship of the 4,120 acres of land that includes Kahanahāiki, Mākua, and Koʻiahi valleys in the moku of Waiʻanae. These core groups include Mālama Mākua (Mālama), Hui Mālama O Mākua (HuiMOM), the American Friends Service Committee (AFSC), Earthjustice Legal Defense Fund (Earthjustice), Koa Mana,

and the Army. The majority of the content for this thesis originates from the legal struggles between the Army, Mālama, and Earthjustice. Prior to the formation of the formal groups currently involved at Mākua, efforts to reclaim land were made by family members and territorial governing officials. Though the analysis focuses on the stories of Mālama and the Army, a general background of each group is necessary to understand the context of the issues within this work.

Mālama was formed in 1992 – during initial challenges to the use and expansion of Open Burn Open Detonation (OB/OD) munitions disposal sites at Mākua. It has since been registered as a 501c-3 non-profit organization with the state of Hawai‗i. The mission of Mālama is to cease military training within the valley and to restore the land as a place for maintaining cultural practices for traditional use. Their vision for the land is to develop a University of Mākua, which would develop exportable strategies of removing UXO (unexploded ordnance), practice experimental methods of extracting contaminants from the land, and invest in restoring the valley to historical use (restoring streams, replanting sweet potato, preserving generational knowledge of cultural practices that are connected to that place). Members of Mālama have defined their participation by emphasizing that they are not so anti-military as they are pro-valley (Dodge 2008). They describe the focus of their struggle as the positive and creative act of restoration – as opposed to the antagonism of another group‗s intentions for the valley. This group has been involved in organizing protest events, public information meetings, sending commentary letters to newsprint sources, creating visual media segments that provide alternative perspectives, submitting testimonies during public hearings, and hosting public access visits to Mākua. One of the strategies that they have undertaken, which is unique to their group within this struggle, is that they have employed legal strategies as a means to address their objectives.

HuiMOM is a larger group of loosely affiliated supporters of the movement to end the military use of Mākua. Their aim is to continue caring for the land by building relationships through ongoing cultural practice. When families were forcefully removed from Mākua during World War II and prevented from returning to their lands once the war ended – the latent potential for HuiMOM was birthed. This potential was activated in 1997 – when the Marines planned to use Mākua beach for a training exercise on Easter Sunday. In order to prevent this from occurring, Mālama and the Hawaiʻi Ecumenical Coalition organized a sunrise service on the beach. They mobilized practitioners, teachers, and community members to crowd the beach – which barred the landing. The Marines cancelled their training. HuiMOM was formed to support efforts that would return Mākua to community care. As a part of that work, HuiMOM aimed to increase awareness of existing cultural practices, maintain cultural sites, and revive cultural practices at Mākua. This collection of advocates have documented existing cultural practices and revived others, have been involved in protests, organized public meetings to discuss concerns about military training at Mākua, penned editorial letters to newsprint media, and submitted testimonies during community scoping processes.

The AFSC was created during WWI – however did not become an active organization in Hawaiʻi until WWII. At this time the AFSC assisted Japanese internees and others who were being relocated, and helped those who were conscientious objectors to the war file their claims (Kyle 2008). Out of this role, the AFSC developed as an organization to actively resist war, to educate on the consequences of war, and to develop healthy economic alternatives that are not dependent on military resources to thrive. Because of their broad goals, the AFSC has been involved in many struggles to reduce the military footprint in Hawaiʻi and abroad. Their methods of being involved at Mākua have included supporting protests, authoring letters to newspapers, and providing public testimony at hearings.

Koa Mana is a group that claims lineal descent to the role of land stewardship at Mākua. They maintain the belief that they are the primary cultural practitioners that can make decisions regarding the care of the valleys, and further assert that they should be the counsels that provide guidance for Mākua once it is returned to the state. Koa Mana has participated in cultural resources training for the Army, and has submitted testimony during public hearings for the EA and EIS processes.

The United States Army first began using the valley in 1929, and later seized 6,120 acres under martial law during WWII. After the war, the agreement to return the land to the state was not honored, and the Army retained their role as steward of the land – under the protest of the state, the territorial governor, and the families that had been removed. In 1959, the Congressional Act that formed Hawaiʻi into a state –placed the acreages under consideration to be earmarked for continued training by executive order of the President (Aila 2008). In 1963, President Johnson completed the process by designating acreage for training, and by returning a smaller section for public land use (Johnson 1964). The military allotted acres have been used by the Army as a training ground for company level live fire exercises (CALFEX's), and by the navy for amphibious landings. Through military funding, the Army has employed environmental restoration specialists that monitor endangered species, anthropologists who maintain and study cultural sites, and other scientists that have experimented with improving technology to restore the health of soil post-military use. The Army has used Mākua as dumping grounds for unexploded ordnance (UXO), OB/OD disposal, and hazardous waste contaminants. The Army's mission was later extended to include the role of environmental stewardship. Since this time the Army developed environmental stewardship programs – which included programs to help restore and maintain the endangered species found in Mākua. The Army has engaged in public hearings, environmental assessments, environmental impact statements, and lawsuits

regarding the valley. The Army would like to assume environmental and cultural stewardship of the valley, and would like to maintain modified training exercises to meet their military proficiency needs in the Pacific and abroad.

1.3 Historical Perspective: Understanding ʻĀina & Storytelling

A native Hawaiian perspective understands ʻāina (land) as more than a resource that serves a consumptive function, and as more than a space to be inhabited or controlled. The Hawaiian word for land is ʻāina or that which feeds. But this conception of being fed is holistic and familial, rather than a purely transactional exchange of satisfying needs. ʻĀina is a repository for ea, the life, sovereignty, independence, and self-determination of a people. ʻĀina carries collective memories of generations in its landscape, in its stories, in the pathways (and features) that are revealed over time, and in the practices that are maintained by this relationship. ʻĀina is a comprehensive, holistic, connected concept – rooted in the foundation of the collective identity of families and communities. Therefore, what has been particularly devastating about the process of dispossession, displacement, or the separation of people from ʻāina, is that a native Hawaiian worldview and lifestyle conceives of, responds to, and cares for land as family. And just as the dynamics of families are influenced and guided by love, mutual affection, struggle, continual conversation, roles, responsibilities, constant engagement - so is relationship with ʻāina.

This relationship between people and ʻāina sustains systems of interconnectedness that strengthens the health of both parties. There is no definitive recipe for maintaining the health of a relationship, these elements are multi-faceted and impacted by the personality, history, and experiences of the groups of people involved in the situation. But there are common components that nourish a relationship, and some of these include mutual respect and care,

responsiveness to changing contexts, and consistent nurturing. Therefore, if a group of people enjoys close family ties with ʻāina that help to shape their identity, informs their life choices, ethics, and practices- then separation from these ties would have destructive consequences. Native Hawaiian people trace their genealogical connections to land as a source of kinship, of cultural understanding, of ways of knowing (epistemology), and practices that maintain the community health – thus the severing of these relationships further facilitates the long term effects of displacement.

Larger policy changes in land reform create and reinforce structures that can serve to facilitate the process of dispossession. By limiting the placement of families engaged in subsistence activities (i.e. hunting & farming) at particular locations (i.e. Mākua), and concurrently reserving this space for ever changing economic axes (i.e. ranching or military training), government planning preferences exacerbate and accelerate the socioeconomic and cultural transitions that reinforce the deterioration of relationship between the health of people and the ʻāina. The dispossession of native people from physical spaces has a connection to colonial expansionist policies, and the advancement of imperialistic economic structures.

A few of the major consequences of displacement include the marginalization of Hawaiian language, history, culture, and people – which is also related to the loss of land through lack of representation at major levels of decision-making and policy. This idea is particularly relevant because attempts to reframe the issue of land use at Mākua – to involve the dimension of a sacred relationship to ʻāina – are largely lost in translation. Some of the efforts made by Mālama & Hui MOM, have been to express a culturally dynamic relationship and genealogical connection to ʻāina through mainstream media sources that are widely available to the general public. This task has proven to be a difficult endeavor, as relationship with ʻāina must be experientially practiced, continually reinforced, and the use of explanation without

connecting it to direct experience - pales the impact of the message. This process of disconnect renders the message incomprehensible at best, or incoherently dismissible at worst. Therefore, understanding the background of ʻāina is key to navigating through elements of story that include this dimension. These elements regarding the relationship to ʻāina are largely ignored in mainstream media – yet ever present in storytelling via oral interviews.

The presentation of stories, whether through oral retelling or printed form, always carries more than the mere transmission of facts, details, or date sequences. Stories expose the narrator's vision of the world, and convey brief glimpses of the influences and expectations that created that worldview (cultural, generational, political, social, economic, organizational, etc.). Stories carry purpose, and have influence in shaping our responses to actions, agents and situations. The subtle elements of word choice, topics of focus, or the amount of spotlight that particular subjects are given – all color the context in which we begin to make sense of the expectations of, or parameters of participation within our world.

In generations past, Hawaiian people would share oral traditions of storytelling that involved people in their relationships with deities, land, creation, family, and different groupings of communities. Each story quite frequently contained cherished recountings of genealogical lineages. Relating these lineages is one way to share intimate knowledge about the history of intentions or actions in particular places, and to pass on expectations of *kuleana* (responsibility, roles, functions for maintaining social structure in ways that honor our history and lineage). Even more importantly, genealogical stories allow future generations to foster connections to the past that remind them that they are a part of something larger than themselves. This in turn has implications for guiding their decision-making processes when considering the management of resources – human, land, natural or otherwise.

Records of stories provide insight into a Hawaiian cultural process of building structures that managed the care of communities, made provisions for government, and impacted quality of life (spiritually, economically, relationally, and physically). It also conveys intentions and assumptions about defining the core of what healthy communities, according to a native Hawaiian perspective, looks like. In so far as I have had the opportunity access oral and written histories of Mākua, these stories appear to project that the core of a community is rooted in the actions of *mālama* (to care, maintain, look out for, serve, protect) and *pono* (the determination to persist in pathways that lead to and are governed by righteousness and justice).

The re-storying process is important in native communities that have experienced legacies of assimilation, and who have continued to form and shape their participation in the midst of structures (i.e. educational systems, political governance, economic framework, etc) that can overlook histories of oppression, exploitation, dissension, or displacement.

CHAPTER 2. LITERATURE REVIEW

The extended land struggle at Mākua presents a distinctive opportunity to sociologically examine unique areas of emerging social movement theory. Social movements are defined as a collective of informal groups that promote social change via a wide range of avenues. Recent trends in this field have included examining the role of institutionalized forms of protest in movement efforts (i.e. court systems vs. protests/boycotts), blending political opportunity and framing theory, and analyzing the various roles that the media plays in advancing or muting a movement. Some of the salient features of the work at Mākua include the emergence of litigation as a pathway to address grievances, the endurance of the issue in the midst of exogenous shocks that shifted structural contexts surrounding the work (i.e. the events of 9-11, military buildup), and the selective media coverage that largely centered on the court cases and corresponding spokespeople.

The genealogy of efforts to study social movements can be traced to seminal pieces of literature that examined the ways in which grievances arose in social and political contexts. This literature eventually helped to germinate a new branch of sociological inquiry (McCarthy and Zald 1977; Piven and Cloward 1977). Piven & Cloward offered the observation that social movements often develop in contexts where there is a transformative experience that unveils the potential for action, and through this process people have transformed perspectives about their capacity to influence change (1977). Initial research focused on the process of communities attributing injustices to external forces, the creation of social movement organizations, and the mobilization of resources.

Two theoretical trends surfaced as researchers wrestled with the concepts surrounding the emergence and form of social movements: political opportunity and framing theories. Studies that used the lens of political opportunity theory looked at collective action as a product

of structural changes or shifts in institutional contexts. This body of work emphasizes the external, situational, political contexts in which social movements occur that develop space for change to happen. This research exemplifies that

> 'a focus on the changes in the structure of political opportunities can contribute to our understanding of the shifting fortunes of a single movement', thus 'most research on political opportunities has sought to show how changes in some aspect of a political system created new possibilities for collective action'. (McAdam, McCarthy, and Zald 1996:12, 17)

Framing theorists contributed to this work by introducing the idea of collective action frames,

> the product of framing processes, which function, like picture frames, to focus attention by bracketing and punctuating what in our sensual field is relevant and irrelevant, what is 'in-frame' and 'out-of-frame'. (Snow, Vliegenthart, and Corrigall-Brown 2007:387)

In social movement literature, frames are shaped and advanced by individuals or collective groups referred to as claimsmakers. The concept of framing is an extension of the application of Goffman's symbolic interactionist work to processes of social change (1974). Frame analysis explores the narratives of social movement actors as a key to identifying problems (diagnostic), strategizing tactics (prognostic), and mobilizing a critical mass for change to occur (motivational).

> Particular lines of collective action emerge or fail to emerge not because objective conditions allow or prohibit them, but rather because…actors perceive 'objective' conditions as allowing or prohibiting them. (Hunt, Benford, and Snow 1994:204)

Both of these theoretical trends have converged in recent studies that merge the impact of framing on political opportunity structures, and the constraining/enabling influence of political opportunity structures on framing efforts (Gamson and Meyer 1996; Meyer and Staggenborg 1996; Zavetoski, Agnello, Mignano, and Darroch 2004). For example, studies have expanded the concept of political opportunity structures to be further categorized:

> Gamson and Meyer (1996) argue for an analytic distinction between relatively stable aspects of political opportunity, such as traditions and institutions, and more volatile elements of opportunity, such as public policy, political discourse, and elite alignment. Political opportunity is not just a fixed external environment that insurgents confront,

> but also something activists can alter (see also Tarrow 1993). (Meyer and Staggenborg 1996:1634)

This delineation is relevant in the study of Mākua because it introduces the idea of looking at the influence of social movement actors in shifting more malleable aspects of political opportunity such as advocating for the compliance with environmental policy, invoking judicial rulings, adjusting media constructs, and provoking elite cleavages within government officials regarding the outcome. Framing and political opportunity research has converged in distinct ways to provide insight into the study of the role of litigation and media in social change. These areas are both pertinent to the study of Mākua.

The examination of litigation is a fairly current development in social movement studies. Historically, research focused on forms of social movement that were not institutionally integrated, such as organized boycotts and staged protests.

> The role of the courts is seldom the subject of theorizing because so much emphasis is placed on demonstrating the importance of outsider tactics. Yet deep historical knowledge of particular movements consistently forces social movement analysts to report how critical court decisions are….(But) this is not a new point. Indeed, some political scientists and legal scholars have long argued that the mobilization of law should be considered a form of political participation potentially useful to the disadvantaged in their struggles for rights and benefits (Zemans 1983). (Burstein 1991:1204).

In response to a growing acceptance of institutionally integrated forms of social movement, there has been an expansion of research to include legal strategy as a tool of social change. Legal strategy is an example of "advocates of particular causes employ(ing) (alternative) social movement forms when they believe, first, that such forms are necessary to pursue their goals and, second, that they are potentially efficacious" (Meyer and Staggenborg 1996:1630). Legal practices have been used in,

> the process of agenda setting by which movement actors draw on legal discourses to name and to challenge existing social wrongs or injustices, (and in) reconstructing the overall opportunity structure within which movements develop (Anderson 2005). (McCann 2006:25-26).

Also, “legal environments (have) become the arena within which organizations collectively construct the meaning of compliance” (Edelman, Leachman, and McAdam 2010:656). Additional research has looked at the divergent impact that legal processes have on the movement.

> (L)egal tactics have arguably worked sometimes to discourage, thwart, or contain social movement development. One common critique is that legal tactics divert resources to lawyers who focus on litigation rather than on grass- roots mobilization and other forms of potentially more effective political organizing (Scheingold 1974, McCann & Silverstein 1998). (McCann 2006:25, 28)
>
> In addition, analysis also sheds light on the relationship between law and social change from the bottom up. Legal frames and injustice frames overlap in significant ways. First, when social movements problematize previously acceptable social conditions and translate experience into injuries, those injuries often become legally recognized claims. This is particularly true for conditions of social inequality…. At the same time, however, law can inhibit social change. (Legal) remedies (can) deemphasize collective solutions, (and) law can reinforce the status quo and protect the powerful. In this view, law is a complex social force that both enhances and impedes social change on the ground”. (Marshall 2003:686)
>
> There is some evidence that legal mobilization often succeeds in movement building because the mass media tend to be particularly responsive to rights claims and litigation campaigns for social justice, although this evidence is primarily limited to the U.S. experience (McCann 1994, Haltom 1998) and is contested even there (Rosenberg 1991). (McCann 2006:26)

My work to analyze the use of court strategies at Mākua hopes to contribute to this expansive research on litigation as a means to promote social change.

While the role of legal strategy in impacting media is contested, the role that media plays in shifting the momentum of social movements and guiding the possibilities of policy change are central to understanding the politics of change. Movement literature has examined media selection biases (McCarthy, McPhail, and Smith 1996), and has suggested that “newspaper captures those events most salient to lawmakers and the public” (Johnson, Agnone, and McCarthy 2010:2275).

> As Gamson and Meyer (1996:287) point out, mass media are another component of political opportunity structure – a component that has both structural and dynamic elements. The structure of the media and the way they operate (their norms and

> practices) affect the opportunities and constraints under which movements operate. The media reports about events are expected to create public controversy and reinforce the position of sponsors of the movement's concerns within the policymaking domain (Gamson 1988:228; Gamson et al. 1992:383; Hamdan 2000:72). Indirectly the goal of the movement's action is to split the policymaking community and to reinforce the opposition within the elite. (Kriesi 2004:86)

Media reports influence the visibility of particular actors, activities, and frames that define issues and are a part of mobilizing key decision makers in government roles that have the ability to influence policy change.

> Most of the impact of the media forum on decision makers is indirect, mediated by the perceived or actual impact of media discourse on the distribution of individual opinions among voters. Policy processes, however, are not driven only or even primarily by ideas. It is quite possible to win the battle of public discourse without being able to convert this into the new advantages that flow from actually changing public policy. It is also possible to lose the battle of public discourse but successfully defend one's own cause by other means, for example, by lobbying legislators or winning in court. (Feree, Gamson, Gerhards, and Rucht 2002:15)

Some reports have found that, "organizations working on issues that address economic and social dimensions of the environment gain greater media attention" (Andrews and Caren 2010:857).

The complexities of the struggle at Mākua gained standing in the media only after Mālama members began to pursue a litigation strategy with Earthjustice.

> Standing mean(s) having a voice in the media. In news accounts, it refers to gaining the status of a regular media source whose interpretations are directly quoted. Standing is not identical to receiving any sort of coverage or mention in the news; a group may appear when it is described or criticized but still have no opportunity to provide its own interpretation and meaning to the events in which it is involved. Standing refers to a group being treated as an actor with voice, not merely as an object being discussed by others. (Ferree et al. 2002:13)

Due to the powerful potential for judicial rulings to create change in otherwise unfavorable circumstances the court case developed prominence in the media as journalists validated their claim to be "taken seriously as important players" in determining the land use at Mākua (Gamson 2007:250). Prior to the emergence of the court strategy, Mālama's frames had been

ignored and were not presented in the media. Personal interviews provide a means to identify frames that did not gain standing in the media.

Framing strategies do not operate independently of specific activities that are used to advance the salience of those frames.

> Meyer and Tarrow (1998:23-24) have observed some mechanisms contributing to the institutionalization of contemporary protest politics in liberal democracies: social movement activists have learnt to employ conventional and unconventional collective actions; the tactics used by movement organizations and those used by more institutionalized groups increasingly overlap. Such mechanisms at the same time contribute to the increasing integration of social movement actors into the policymaking process and to the adoption of social movement strategies by routine participants in the policymaking process. (Kriesi 2004:85)

In the case of Mākua the legal strategy enabled movement actors to develop the potential to influence policy and land use changes. Mālama represented a relatively resource poor community organization confronting a comparatively resource rich government institution, in order to achieve the rather audacious outcome of convincing the Army to concede to move their entire training operation out of Mākua. This type of advocacy had been accomplished with some measure of success in the case of Kaho'olawe. Mālama's initial framework for opposing training at Mākua was based on the idea that it is a place of sacred cultural significance that contained living links to genealogical practices, and was therefore an inappropriate training location. Despite the fact that Mālama's primary framework was that training at Mākua was inappropriate, they opted to challenge the Army's access to the land through a legal battle that was based on a relatively narrow framework of adhering to environmental regulations.

> Movement framing strategy must cope with difficult dilemmas. Should movement actors challenge embedded and heavily defended beliefs in dominant frames or tacitly accept these while challenging on narrower grounds? One path leads to marginalization; the other to a continuing battle on unfavorable terms. (Gamson 2007:259)

Litigation strategy reframed the issue in ways that would gain relevance in legal domains, sought to expose the Army's non-compliance with federal regulations, and compelled the study of the

impact of training on endangered species and the community surrounding Mākua. However it participated in a battle on unfavorable terms because it opted to challenge an institution (the Army) that had an extensive array of resources, and that enjoyed fairly robust support by various Hawai'i elites – and did so - in a state dependent on military funding for economic well being.

In Johnson et al.'s study of environmental movements, they note that,

> the majority of analyses of (environmental) movements have studied movements in periods of extremely heightened mobilization (e.g., Amenta et al. 1992, 2005; Andrews 2001; King et al. 2005-2007; McAdam and Su 2002). Research assessing the outcomes of movements in periods of stable or declining mobilization is needed to help fill this lacuna. (2010:2285)

The history of mobilization at Mākua extended through the substantial structural shifts of political landscape and declining mobilization that resulted in the period post 9-11.

> Now, some exogenous shock, such as changes in socioeconomic conditions, catastrophes, system-wide shock, such as changes in socioeconomic conditions, catastrophes…may destabilize the equilibrium. This provides a 'window of opportunity' (Kingdon 1984:173-204) for policy change in general and for the intervention of social movement actors in particular. (Kriesi 2004:76)

The events of 9-11, the corresponding military build up, and America's preparation for war created this "window of opportunity" for policy change (Kriesi 2004:76). This research hopes to contribute to the body of social movement literature by studying an environmental movement through periods of stable and declining mobilization. Suggested areas for further research have also included the examination of "how pathways of institutional change interact; in particular**,** how exogenous shock may become the catalyst for endogenous shift and consciousness change, or conversely, how an endogenous shift may precipitate an exogenous shock" (Edelman et al. 2010:675).

Studying the land struggle at Mākua addresses the lacuna in social movement literature by providing a platform for studying the outcomes of litigation strategy in periods of stable and declining mobilization, and in the context of exogenous shocks that have the latent potential for

endogenous shifts. Though environmental movements appear to be fairly successful there is also dearth of research that studies the expansion of environmental compliance via legal pathways to include cultural stewardship frames. The Mākua court cases were framed around environmental compliance, but led to claims for cultural access and stewardship. Claims towards rehabilitating and restoring cultural practices tied to lands at Mākua were subsumed within the dominant framework of advocacy towards community health and environmental protection. I trace the impacts of prognostic strategies that engage the court system to effect policy change in land use and gain access to land designated as military training grounds. Along the way, a series of court cases and a legal agreement were used to invoke the enforcement of federal environmental regulations, and to build policy to actualize claims towards indigenous and community rights (i.e. right to cultural practice, access to land use, etc.).

While this small qualitative case study cannot provide generalizable conclusions, I hope to provide insight into understanding the nature of struggles of similar groups that engage in ongoing conflict over the assertion of self-determination claims via environmental court cases (i.e. land use, cultural practice, land tenure, education, water use, governance, economic self-sufficiency, sovereignty). This research seeks to create a descriptive case study of the framing strategies presented in the Mākua struggle by drawing from a data set that comes from content analysis of newspaper articles spanning from 1998-2006, additional articles bridging 2006-2013, and ethnographic interviews with various participants from 2008. In order to address areas of suggested research to fill in gaps regarding movement activity in periods of stable/declining mobilization, and exogenous shock, this study aims to address three research questions: 1. What frames/stories were available in the media, how did this differ from those available in interview narratives?, 2. What effects did the legal strategy have on the struggle at Mākua?, 3. How did 9-11 influence those processes of change?

CHAPTER 3. METHODOLOGY

The purpose of this case study is to provide descriptive insight into the unique land stewardship issues at Mākua, and provide an analysis of one aspect of land reform in Hawaiʻi. It seeks to enhance an understanding of the relationship between the framing processes available within the media, the unique aspects of legal strategy to influence stewardship struggles at Mākua, and the effects that 9-11 had on impacting these processes of change. I hope to contribute to the body of research that explores land reparation movements in modern contexts.

In order to locate the movement at Mākua within the wider context of peace and environmental justice movements - I collected both qualitative and quantitative data to provide a broad political, economic, social, and historical background. I conducted in-depth interviews and compiled local (mainstream and alternative) news articles regarding the issue.

Interviewee participation in the project was voluntary. The project was explained and informed consent was obtained in writing before the interview process began. Interview questions focused on the subject's experience, understanding, and relevant assessments regarding the resistance movement towards the military use of Mākua Valley. Additionally, subjects indicated on the consent form whether they agreed to have their name and personal information used, and whether they agreed to have the interview audio-recorded. Some subjects consented to audio-recording the interview, and these recordings were used to review information and verify the accuracy of research notes.

Through the interviews, I gathered qualitative data on conceptual framework that guided their strategies, and perspectives on key political opportunities. I further requested their analysis of strategic decisions that affected decision regarding the future stewardship of the land. To assemble information about the elements that impacted prognostic framing construction, I interviewed subjects who have personal and intimate knowledge of the events surrounding the issues at Mākua. I attempted to select subjects who could provide diverse perspectives regarding the matter. The interview list was created by a general review of available local and national newspaper articles that discussed the history of Mākua, and identified key claimsmakers and leaders involved in the conflict. The initial interview list included:

- federal and state government officials,
- Army media relations, librarians, training range directors, and anthropologists,

- and representatives from each group involved at Mākua (HuiMOM, Mālama, AFSC, Earthjustice, and Koa Mana).

All interviews were completed between September – December 2008.

The data that I collected identifies the people involved in the study- only if the subjects being interviewed consented to this disclosure. This disclosure is necessary and appropriate – because many of the participants interviewed were publicly identified participants playing specific roles in the situation. In some cases it was essential that I was able to connect information from the interview with other information in public documents and their participation in public events concerning the issue. The identification poses no great risk to the persons providing the data. To mitigate for this risk of loss of privacy, each interviewee was provided an option regarding identity disclosure. Personal information has only been included when it is relevant to the analysis of resistance, to identify key actors, and to reveal meaningful factors regarding the resistance movement. The subjects of interviews were primarily prominent public figures in media representation regarding Mākua Valley, and I spoke with them because of the public role that they have played in the movement, in the military, in the legal representation of either party, and in the government as a public official.

Government officials who issued public statements about Mākua, or who had been involved in the mediation process were selected for this study. Unfortunately, I was unable to schedule any time with congressional delegates, Daniel Inouye and Neil Abercrombie. I interviewed Office of Hawaiian Affairs (OHA) trustee, Rowena Akana, because of the influence that the stewardship of Mākua has on the well-being of the fairly large Native Hawaiian community that surrounds the training grounds. I interviewed state legislators, Karen Awana & Maile Shimabukuro, because they represent the districts that are primarily affected by training activities. In 2008, they represented districts 44 and 45 respectively, which include Nānākuli, Māʻili, Waiʻanae, and Mākaha on the west coast of Oʻahu. These districts were subsequently reapportioned in 2012. Maile Shimabukuro was also selected because of her personal connection to activism surrounding Mākua, her step-father is Fred Dodge - who is a prominent member of Mālama Mākua.

Army officials or proponents of military use of the land were approached for interviews – so that I could understand the nature of military claims to the land, and gain knowledge of their responses to proposed alternatives. Certain subjects approached for interview possibilities cited

that they did not have any relevant information to share, while others expressed that due to the sensitivity of the ongoing case they were unable to share their thoughts. Requests for interviews were also made towards several retired military members who had formally trained at Mākua, and due to the delicate nature of their history with the military, concerns about the impacts of their involvement in this study on their retirement benefits, and uncertainties about degree of disclosure permissible– they declined. I also contacted the Director of Public Relations, Dennis Drake, to set up an appointment. After initial brief phone conversations, the Army's litigation team requested the submission of the full set of interview questions. I immediately acquiesced by sending the list of questions, and after the team had reviewed the questions – I was unable to elicit a response to accept or a decline an interview. This process spanned the course of three months and after multiple unreturned phone calls– I had almost given up on the possibility of any interviews with Army claimsmakers. However, as I began to gather newspaper articles from the "Hawai'i Army Weekly" (HAW) at Schofield Barracks, I had the privilege of serendipitously meeting the Director of Public Relations, Dennis Drake. The HAW is not indexed nor digitized, which meant that I spent a considerable amount of time in the archives – thumbing through each newspaper. These archives happened to be located right outside of the Director of Public Relations' office. Thus, after witnessing me camped directly outside his office for a successive number of weeks - he graciously called me into his office and was able to share a briefing regarding Mākua. I was also able to spend time with another Army official – with general knowledge about Mākua - who has requested anonymity for the purpose of this study.

Of the proponents of change at Mākua – I interviewed one HuiMOM member (William Aila), two Mālama representatives (Fred Dodge, Sparky Rodrigues), one ASFC staff member (Kyle Kajihiro), and one Earthjustice attorney (David Henkin). Unfortunately, I was unable to schedule an interview with a representative from Koa Mana. Each of these individuals were chosen because of their long-term commitments and participation in proposing changes in stewardship at Mākua.

Prior to conducting the interviews, I researched and reviewed the information available through newspapers and online articles regarding Mākua. I focused on digesting the general framework of the Mākua conflict, understanding the varying perspectives, and identifying the major spokespersons in the struggle. This background was necessary prior to engaging in interviews because it provided a body of knowledge against which I could contrast the stories

told by interviewees. I attempted to record each interview session, but five of the interviews did not record clearly and large sections were garbled or truncated. I took personal notes for every interview, and within a day after each session I spent time reflecting on the major themes that were mentioned, the concepts/histories that were shared, and also made memos regarding the elements that were not addressed in their responses. During these reflection sessions, it became clear that the depth of history, motivational decision-making, and cultivated concepts of cultural knowledge were not mirrored in the newsprint. This is to be expected, as stories and media are constructed with different purposes, audiences, parameters, and structures. Some interviews lasted a brief 30 minutes, while others extended 2-3 hours. On occasion, due to scheduling constraints that impacted my data collection, I conducted several interviews in one day. This turned out to be a practice that I would not repeat, nor recommend. Each interview participant had varying perspectives on historical and strategic analysis, and on days where interviews were scheduled in clusters, this process made it difficult to clearly differentiate amongst the subtle, yet important, variances between interview content. Responses were not transcribed, nor coded. Rather, data from interviews were summarized into broad categories that included event categorization (what activities/actions were mentioned in interviews), strategic considerations (how pathways to social change were selected), identification of motivational factors for participation (what initiated involvement, and maintained their persistence in the issue), definitions of the significance of intersecting contexts (cultural, social, environmental, economic), individually identified influential events (what were the events that they identified as significant), and descriptions of adaptive responses to influential events (how did they respond to major shifts that affected Mākua). Repeated patterns, and commonly referenced attributions of meaning repeated across claimsmakers were noted and systematically compared with content analysis data from newspapers.

In addition to gathering qualitative data by conducting interviews, I also gathered eight years of news article coverage (mainstream and alternative) regarding the issue. I compiled stories from two mainstream local newspapers (Honolulu Advertiser, Star Bulletin), one alternative local newspaper (Honolulu Weekly), and the local Army newspaper (Hawaiʻi Army Weekly). Initial efforts were made to include other alternative news sources (Maui Time Weekly & Haleakala Times), but due to the inaccessibility of sources, lack of indexing, and lack of electronically archived articles– I made the decision to focus only on Honolulu Weekly. Honolulu Weekly was selected because of their membership in the Association of Alternative Newsweeklies (AAN).

The AAN is a highly selective organization that provides membership to alternative newspapers that demonstrate an excellence in journalism, and faithfulness in reporting on issues or communities that are marginalized by mainstream media. I chose to gather the Hawaiʻi Army Weekly newspaper because it presents a historical assessment of Mākua from the perspective of the military. I elected to focus only on newsprint media, and did not include A/V media sources for the purposes of this study – in order to make the volume of resources manageable. All stories regarding Mākua Valley were exhaustively compiled from these sources within the dates of September 1998- December 2006. These dates were selected because they marked the beginning of media coverage of legal strategies and contained the most recent court ruling regarding Mākua at the time of collection.

In order to analyze this large array of articles, I created an Access Database, with the consultation and support of Dr. Patricia Steinhoff. The custom designed Access database allowed me to consolidate the content of the newspapers and sort through the data in a manageable way. For each article that was gathered, I captured pertinent information about the data source, the author, the date of publishing, the type of the article (i.e. front page, events listing, editorial), and traced a timeline of events to chronicle events at Mākua. Lastly, I captured information regarding claims that were made regarding the stewardship of Mākua, with the corresponding claim maker. In many instances, the claimsmaker's group association was incorrectly attributed, or not included at all. I decided to include the group attribution that was mentioned within the article versus attributing the accurate group association. I did this because information provided to newsreaders presented a different set of details and foci, and I wanted to create a database around information that would have been available for the general public. Claims were consolidated, coded and recorded for each article, the order in which each assertion was made within an article was also tracked. For example, two opposing claims that were tracked included: the military is a good environmental steward, and the military is a poor environmental steward. After collecting these articles, I used content analysis to provide a systematic approach to consolidating the data present in the media. Content analysis was used in an effort to reveal the larger political-social landscape and identify the claims available within the media, the effects of the legal strategy, and the impact of 9-11 on those efforts. I used coding to identify prominent events, themes, and arguments that were present within articles.

In order to systematize coding procedures I created a coding manual for studying the news stories. I began the coding process by reading through selected articles from each year, and

created notes regarding general themes that reoccurred within the framework of media stories. To practice consistency with coding, I maintained a coding table that included a list of phrases and core descriptors and their corresponding coding category. In this way, when I read an article that contained any variation of phrasing/description that matched my coding table – I was able to assign coding with a fairly consistent degree of uniformity.

Figure 1 Appeal Types

Appeal Types
A1: Military practice protects/maintains cultural stewardship practices
A2: Military practice Inhibits/threatens cultural stewardship practices
B1: Anti EA/ Anti EIS
B2: Pro EA/ Pro EIS
C1: Community Historical Precedence for Use of Land
C2: Military Historical Precedence for Use of Land
D1: Responsible/Adequate Environmental Stewardship by Military
D2: Poor/Inadequate Environmental Stewardship by Military
E1: Military funding benefits Hawaii's economy
E2: Military funding drains Hawaii's economy, Alternatives are
F1: Military presence negatively impacts community health
F2: Military presence positively impacts community health
G1: No Alternatives to Makua/National Security/Military Readiness
G2: Yes Alternatives to Makua
H1: Satisfactory Community Input/Adequate Community Support for military practices
H2: Unsatisfactory Community Input/Inadequate Community Support for military practices
I: Kahoolawe
J: Other Movements

All interview data was analyzed and prevalent frames that were not visible in the media are presented intermittently in my analysis. All newspaper data was coded for content analysis, and queries were created to quantify claims and to layout a broad pattern of the prominent claims, and claim origins over time. Through this data, this case study aims to address three research questions: 1. What frames/stories were available in the media, how did this differ from those

available in interview narratives? , 2. What effects did the legal strategy have on the struggle at Mākua? , 3. How did 9-11 influence those processes of change?

CHAPTER 4: 1998-1999 MEDIA FRAMES & INTERVIEW NARRATIVES

When the content covering the events that spanned from 1998-1999, from media and oral storytelling sources are juxtaposed - two distinct yet parallel stories emerge. The newsprint media story provided detailed information about a sensational fire the destroyed a large swath of Mākua – and initiated a flurry of activity. News coverage also provided technical accounts of the ins and outs of the ensuing court cases sparked by the fire, and of the complex arrangements between the plaintiffs and the defendants. However, key background information, chronology, and potential motivational factors towards key decisions were largely absent from news reports. Within the interviews, key details that shaped and shadowed the depth behind events and key players - painted a picture that varied and at times conflicted with the news representation. This chapter explores the storylines available via each source and contrasts the framing of events at Mākua via media and personal interviews.

In any retelling of history or current coverage of contemporary events, there are multiple vantage points from which to tell the same story. The perspectives from which a story is relayed – the selective pieces that are left out or accentuated - can influence the perception of the validity of actions, agents, and the context of a situation. Gamson writes that, "individual or collective actors…are all a part of the gallery for the mass media arena…(and) the messages that (their) supporters hear cannot be ignored" (Gamson 2007:243). Consequently, the presentation of information has import for generating public response around particular issues.

From the vantage point of someone reading the newspapers in an attempt to gather information about this topic- there was little history available that covered events prior 1998. The newspapers started to provide more detailed background to the stories once the legal cases were initiated. It appears that the legal case offered visibility to the struggle by virtue of the fact that the sheer number of articles devoted to the issues at Mākua increased with the emergence of

the court cases. The majority of the background information regarding Mākua was not available to the general public via the media until late 1999 and early 2000, when reporters began to follow the legal proceedings and burgeoning public and political response to those cases.

The availability of stories for the general public to access in a timely and accurate manner has implications for the critical dissemination of information and has an impact on the potential for building movement momentum. With regards to the newspaper - members of Mālama and HuiMOM were frequently attributed incorrectly, and both groups received proportionately less coverage when compared with the availability of Army representation. Koa Mana, HuiMOM, and the AFSC received the smallest amount of coverage amongst all groups representing claims at Mākua respectively (Refer to Figure 5). Koa Mana received the greatest frequency of acknowledgment within the Hawaiʻi Army Weekly (HAW), HuiMOM received the greatest frequency within the Honolulu Advertiser (HA), and the AFSC within the Honolulu Weekly (HonW). Due to the minimal amount of media exposure allotted to groups like HuiMOM and the AFSC –their stories were primarily transmitted through relational/community connections. This limited the scope of influence for proposing challenges or alternatives to the military occupation of Mākua. The scarcity of alternative stories, that included historical perspectives, also had implications for the degree of depth initially available to interested parties who were weighing their conclusions about the matter.

But before delving into the contrasts between framework presented via the media, and those presented during interviews – a brief introduction to the core legal regulations that were the foundation of the court cases is necessary. Central to the legal actions taken at Mākua is a basic understanding of two specific federal regulations: the National Environmental Protection Act (NEPA) and the Endangered Species Act (ESA). Here is an overview of those regulations.

4.1 ESA: Endangered Species Act

The Endangered Species Act (ESA) requires federal agencies to conduct a comprehensive consultation with the U.S. Department of Fish & Wildlife Services (USFWS) if they are undertaking activities that **may** affect federally listed endangered species. The USFWS serves as a regulatory agency that assesses the potential for proposed activities to destroy critical habitats or push endangered species to extinction. Once the comprehensive review is completed a report is created by the USFWS that documents their findings and includes a plan for mitigating the effects of activities on the endangered/threatened species.

An overview of endangered species nationally and locally can provide a greater understanding of the context for the ESA. As of May 2013, there are a total of 1118 endangered species listed nationally, 451 animal species and 667 plant species. Within Hawaiʻi there are 402 endangered species, 63 animal species and 339 endangered plant species. Almost 36% of all endangered species are located in Hawaiʻi (USFWS 2013a; USFWS 2013b). The relatively isolated ecosystems of Hawaiʻi have created the environmental conditions that support an expansive biodiversity of species. Hawaiʻi contains 11 of the 13 climate zones in the world. As a result of this broad range of environments that support life – 13.9% of animals and almost 50.8% of plants on the endangered species list are found in Hawaiʻi. On O'ahu alone, the military occupies approximately 22% of the land (Kajihiro 2009:301). According to a Natural Resources report issued by the military, a "total of 70 endangered species, 57 plants species and 13 animals species, have been reported from Oʻahu Army Training Areas since 1982" (U.S. Army Garrison Hawaiʻi 2003:i). Taken in context with the figures mentioned above, almost 20% of the endangered species within Hawaiʻi are found on military occupied land on Oʻahu. And of the endangered species found in Hawaiʻi, Mākua contains 11.2% of that total.

One of the central features of the ESA mandated consultation with the USFWS is the creation of a document that contains a "jeopardy ruling". A jeopardy ruling is the culmination of the tests undertaken that presents the findings of whether or not the proposed activities will impact endangered species. If a federal agency's activities are deemed to threaten an endangered species, they are mandated to undergo ongoing consultation, develop mitigation plans, and in many cases to cease their actions and utilize alternative options (i.e. relocate activities to a site that does not have such adverse effects). The provisions require that the agencies are held accountable for the tracking and documentation of the impact of their actions on endangered species. Under the ESA agencies must also provide remediation for the consequences of their impact.

In the event that a community would like to challenge the adequacy of the federal agency's compliance with ESA regulations they may engage in a lawsuit. However a plaintiff who intends on engaging in this type of lawsuit must provide 60 days notice to the defendant. This period of time offers the defendant an opportunity to respond to allegations, reform their compliance measures, and avoid litigation.

4.2 NEPA: National Environmental Protection Act

The next set of federal regulations that has been central to Mākua litigation is the National Environmental Protection Act (NEPA). NEPA was created under the premise that information is empowering and is crucial to making sound decisions. NEPA regulations state that if an agency's actions may have a significant impact on the human environment, then that agency must do an Environmental Impact Statement (EIS) (Henkin 2008). An EIS is a comprehensive examination and report regarding possible impacts that the agency's actions may have on the human environment. The "human environment" encompasses a wide range of definition that includes socioeconomic, cultural, and physical factors (Dodge 2008; Henkin

2008). The EIS process also requires that the agency explore all alternative options to fulfilling their goal, so that a reasonable evaluation may be made regarding the costs and balances of undertaking a particular action in a specific place, in comparison to fulfilling those same goals through an alternative option (Henkin 2008). In this case, alternative training exercises, or alternative site locations could be examined, explored, or considered.

The EIS process requires the agency to commit to extensive testing, to plan community hearings, and to explore all alternative options to their proposed actions. In exploring these options, the agency must address the disproportionality of the impact in particular areas – and compare this to the possibility of a minimized impact on the human environment if actions are undertaken in an alternative site. Due to the fact that an EIS is a significant undertaking – completion of a report can take an average of about one to three years to complete. In order to expedite the process, Army protocol recommends the EIS process to be completed within 18 months (Henkin 2008).

Under the guidelines of NEPA, if an agency is not sure about their impact, they may opt to do an Environmental Assessment (EA). An EA is a more limited examination of the impacts that the agency may have on the human environment, for the purpose of helping to determine whether or not their actions confirm/affirm the need for an EIS (Dodge 2008; Henkin 2008). It is a more cursory study– that provides minimal testing, and briefly weighs community input regarding their proposed actions. Due to the nature of the study, the document produced requires less time, is less comprehensive, and is less detailed. Both documents require the agency to examine all reasonable alternatives to their proposed actions.

When a final EA is presented there are only one of two conclusions that can be made. The first conclusion that the agency can present is that its actions **DO** have the potential to impact the human environment. At this point, the agency is obligated to commit to the longer

process of undergoing an EIS, which means an additional commitment of time investment to comprehensively study their potential impact. Impacts on the human environment could include consequences such as the potential destruction of cultural sites from fires or the harmful impact of the disposal of hazardous materials that affect or contaminate a community's recreational waters, drinking water, air, or consumption of flora or fauna (i.e. fish, limpets, or limu) within the surrounding area. The other conclusion that the agency can deliver is that its actions **DO NOT** have the potential to impact the human environment. This conclusion is known as a report that issues a "Finding of No Significant Impact" (FONSI). A FONSI decision determines that the proposed activities have no potential for impact on the human environment. The agency must have proved beyond a reasonable doubt that their actions absolutely do not have the potential of causing a detrimental impact on the human environment. If a FONSI decision is made, the agency can resume proposed activities as soon as they determine that action is necessary.

The process of creating an EA and/or an EIS is intended to provide a mechanism for the exchange of information, and to allow for the accountability of federal agencies to the communities in which they operate locally. If, after receiving this information, the public deems that the impacts contained in the report warrants a reconsideration of the agency's actions – then they can take it to their elected officials to seek a change to those plans (Henkin 2008).

Typically both the EIS and EA studies must be completed BEFORE an agency's proposed actions begin. In the case of Mākua, advocacy towards the EIS/EA process did not occur until members of Mālama Mākua and the legal representation of Earthjustice brought this oversight of federal guidelines into public purview. In other words, the consideration of the EIS/EA process was initiated AFTER the agency's proposed actions (i.e. live-fire training) began. In the history of Mākua - the communities educated, empowered, and mobilized a

critical cross section of the public to compel compliance with federal regulations designed to safeguard communities. Prior to this activism, federal guidelines created to ensure the safety of the community and the accountability of agencies to the federal government were not being enforced at Mākua. The Army operated without adhering to federal regulations, without repercussion or consequence, until community members gained the knowledge to build awareness and momentum to influence a change within this state of affairs.

In summary, NEPA requires agencies to analyze the effects of their actions (if it may have a significant impact on the human environment), and requires those agencies to make this information available to the public. It requires and provides an avenue for agencies to responsibly communicate in comprehensive ways with the community, regarding actions that are taken that could impact their livelihood.

4.3 Contrasting Storytelling: Understanding Decision-Making Through the Lens of the Media & Interviews

After a review of available newspaper indexes, the earliest protests regarding Mākua that I could identify were first recorded in the local newspapers in 1971. Resistance efforts at Mākua were given cosmetic media treatment throughout the next two decades, but these struggles encountered very little in the way of tangible change or response by the Army, the state, or the federal government to their demands. Throughout this time two organizations, Mālama & HuiMOM, were formed that engaged in activities that presented alternative plans for the land at Mākua. Mālama developed tactics for tracking military activities, organized strategic goals to care for the land and the resources at Mākua, and created alliances with constituents that shared their sympathies (such as the American Friends Service Committee (AFSC)). HuiMOM implemented ways to demonstrate and create visibility of the cultural practices and community connections at Mākua. Throughout all news sources, individual affiliations or membership

within a group were frequently inaccurately attributed, and distinctive purposes of each group were not distinguished. Information about alternative visions for Mākua were only available through conversation or relationship with group members from Mālama, HuiMOM, or Koa Mana.

There were two distinct stories that emerged from two sources of information, the local media and oral interviews. If we trace the story of Mākua that was generated through the media, the legal conflicts grew out of a reactionary response to a destructive fire that occurred in September 1998. A large fire caused by a mortar round (the shell fired by a mortar – a mortar is a short piece of artillery, used for firing bombs) razed 800 acres of land. This event marked a turning point for groups that were attempting to gain ground in voicing their grievances and instituting alternative plans for the use of the land. In the newspapers, groups used this event to draw attention to another Army initiated fire incident that had occurred 3 years earlier (Kakesako 2001d). At that time, a controlled fire had spread wildly and enveloped 2,600 acres of land, even spreading to the public coastal areas of Mākua. In light of the media coverage and wide public outcry in response to these events that pronounced the implications for the destruction of cultural and environmental resources, the Army was prompted to voluntarily suspend their activities. The military in an effort to practice responsible stewardship then proactively took the initiative to review their practices with U.S. Fish & Wildlife regulatory agencies (USFWS) in order to mitigate their environmental impact, and assess their fire mitigation plans. To illustrate these sentiments, here is an excerpt from an article published by the Honolulu Army Weekly (HAW):

> The Army has put a temporary halt to training at Mākua Military Reservation. The voluntary stand-down, ordered by Maj Gen. James T. Hill, 25th ID and U.S. Army, Hawaiʻi, commanding general, coincides with the Army's recent decision to initiate formal consultation with the U.S. Fish and Wildlife Service.

> The formal consultation, required under Section 7 of the Endangered Species Act, will determine the effects of routine training on endangered plants and animals. Of the more than 200 endangered plants and animals in Hawaiʻi, 30 are found in Mākua Valley. The Army sends about $3 million annually on its ecosystem management program. The self-imposed stand-down reaffirms Hillʻs commitment to safeguarding archeological, biological, and environmentally sensitive areas such as Mākua. (Hawai'i Army Weekly 1998a)

This is the picture that was presented and reinforced via the newspaper articles that I reviewed which covered this story, or historically recalled the story as a backdrop to future headlines.

The salient features of this version of the story highlight the proactive nature of military response to an unfortunate incident, the immediate demonstration of care and concern for the natural resources under their care via the USFWS consultations, the invested legacy of environmental stewardship maintained by military funding, and the generous cultural sensitivity displayed by the halting of military exercises in order to study the nature of archaeological damage caused by the fire. It further demonstrates the military's respectful stewardship of commitments to community health via care for land, resources, and cultural treasures. According to media sources, after the fire military spokesmen advocated for responsible environmental and cultural resource management, and demonstrated good faith by delaying training in order to undergo USFWS consultations. What also emerged after the fire, were two court cases initiated by Earthjustice & Mālama – to address violations of federal regulation – that already appeared to be responsibly addressed by the military's actions.

To contrast the message presented within the media, the perspectives of those who were involved in the movement provided an alternative understanding of the processes surrounding the Army's decision to halt training and to undergo USFWS consultation. This version of the story of Mākua was formed after gathering several interviews from members intimately involved in the issue, and those with knowledge of the litigation history. The background behind the events that precipitated the Army's response – differs from what was presented in the media -

and this story provides a subtly, but significantly, contrasting explanation of potential factors influencing the suspension of training exercises and the initiation of a formal environmental review.

For years, fires had been ignited in the valleys due to misfired mortar rounds, out of control "controlled burns" designed to reduce the risk of fire, and decisions to maintain training schedules despite high-risk "fire threat" (dry weather, drought, etc.) indicators that cautioned against the execution of live fire training. From 1990 to mid-1998, there were 270 documented fires that occurred as a result of training exercises. In addition to the risk of fire, there were general concerns about the safety of military practices at Mākua – and the impact of those activities on the Wai'anae community. The collective momentum for a more formal measure of accountability had been fomenting for some time. As individual community members began to research the history of military activities at Mākua - they uncovered less than desirable stories of contamination and heard disconcerting stories about the lack of responsible stewardship with munitions disposal and training practices.

In 1995 a group of community members approached David Henkin, a new staff attorney at Earthjustice (then called Sierra Club Legal Defense Fund), with their concerns. Earthjustice is a non-profit public interest law firm that provides free legal assistance for court cases that seek environmental justice. Community members, via Mālama, sought the expertise of Earthjustice as a platform that would provide a structure to encourage the Army to disclose information about the details of their activities at Mākua. They viewed information as an essential element for the inclusion of community members, and the strengthening of community voice in decision-making processes that affected their health and wellness (Dodge 2008; Henkin 2008).

Earthjustice began to research the history of Mākua in order to weigh the merits of the case and as the formal collection of legal information began to ensue, a very important

document emerged. According to interviews with Fred Dodge, a member of Mālama Mākua, and David Henkin, this document helped set the foundation for building a strong case for Mālama's concerns around training activities (Dodge 2008; Henkin 2008). In 1976, Schofield Barracks had invested in an EIS to examine some of the training activities at Mākua. At that time due to the EIS findings that an isolated training exercise held at Mākua had deeply impacted the physical environment, the report recommended that the Army undergo a comprehensive EIS for the entirety of the exercises that took place at that location. Despite internal military studies advocating for the completion of an EIS – and federal regulations requiring the EIS - there was no official response to this recommendation. No efforts were made to complete the EIS in order to examine the impact of military activities at Mākua.

Despite these findings in 1995, that indicated that Mālama had a fairly robust case to present, Earthjustice's prior organizational commitments to other cases throughout the Pacific delayed the initiation of formal proceedings. But in 1998, Earthjustice & Mālama began to develop two lawsuits that were based on the Army's non-compliance with and violation of the federal regulations of the National Environmental Protection Act (NEPA) and the Endangered Species Act (ESA). These lawsuits were based on lingering concerns about the potential long and short-term impact of training on the community and the environment. Mālama members also felt that the Army had been resistant to sharing information with the public regarding their activities. Thus Earthjustice advanced the platform that the Army had a moral obligation to be held accountable to the people of the Waiʻanae coast, and to regularly communicate with those who were impacted by their activities.

After three years of preparation, Mālama & Earthjustice sent a notice of intent to sue to the Army. This notice was sent two weeks prior to the fires that occurred in September 1998, and included information regarding two pending court cases for violations of NEPA and ESA.

Within this document they listed misfired mortar rounds and the long-standing history of tremendous fire damage caused by live-fire training as some of the primary main reasons for their objection to continued activities at Mākua. Here is an excerpt of a report released by the Army regarding the impact of training.

> On Oʻahu, Army training can threaten endangered species in two primary ways. First, live ammunition training can cause fires, which can potentially spread beyond the designated firebreak and destroy habitat and kill endangered plants and animals. In addition, fire opens up previously native areas to weedy alien species, which out-compete native species for light and nutrients and lead to the deterioration of an ecosystem. Second, training maneuvers spread existing weedy species and introduce new weeds to areas, exacerbating and intensifying weed impacts to native ecosystems. (Natural Resource Management 2003)

Furthermore, the document containing their intent to sue - also outlined concerns over the lack of transparency and community accountability regarding the impacts of the training exercises on the health of the people that fish, farm, and live in the vicinity. In response to these concerns, it aimed to address the care and stewardship of cultural sites, and to increase access to these places of significance such that Hawaiian religious and cultural practices could be maintained at Mākua.

If the Army desired to prevent the litigation from moving forward they were required to take immediate action to comply with both ESA & NEPA regulations. The first case sought to compel the military to consult with USFWS in order to address their deficiencies in complying with ESA regulations. The second case sought to mandate the military to complete an EIS that would provide pertinent information to the community about their training exercises at Mākua – in order to comply with NEPA regulations. In either case, military activities at the training reservation would need to cease until the USFWS consultation and the EIS process was complete. In response to the Earthjustice & Mālama lawsuits, the Army took steps to address ESA regulations by undergoing a USFWS review immediately following the fire, and in time – the Army also made efforts to respond to NEPA regulations by studying the impact of training

at Mākua (Bakutis 1999g). They chose to do so by opting to complete a briefer examination of impact via an Environmental Assessment (EA) – to determine if a more comprehensive Environmental Impact Statement (EIS) would be required. Under federal regulations the decision to commit to an EA or EIS is solely at the discretion of the agency (the Army). Yet there was resistance to this decision. David Henkin commented in the newspaper,

> I am not going to argue over potentiality (of the impact of training), because I have 270 documented fires over the past 15 years that proves that the impact on the human environment is an actual reality. But it is up to you, it is your call, it is your discretion. If you want to waste your time, and my money (tax dollars) to go through the EA process to determine if an impact on the human environment is a possibility, then be my guest. But we reserve the right to challenge the adequacy of your results. (Henkin 2008)

Mālama Mākua & Earthjustice representatives advocated that the completion of an EIS was the most sensible way to address NEPA regulations.

The salient features of this version of the story, largely available via interviews, highlight the proactive nature of Mālama Mākua & Earthjustice in response to a collection of common lived experiences, informal knowledge dissemination networks, and formal research into the history of military training and land use. It displays the tremendous tenacity of community members to mobilize resources, navigate potential pathways to action, and generate dialogue for meaningful information exchanges regarding the impact of military activities on culture, community health, and environmental resources. But this significant narrative was not made available to general newsreaders.

Cast in the light of the background stories provided by interviews, the decision to cease exercises and to consult with the USFWS was influenced by the motivation to respond to pending litigation. In the analysis of David Henkin, the lawyer for Earthjustice, "the Army saw the writing on the wall, and announced the voluntary suspension of training" (2008). The publicly declared ceasefire and consultation review - was a media framing strategy that afforded

the Army an opportunity to rebuild and reinforce their reputation as responsible land stewards. Their reputation had been momentarily damaged by the destruction caused by the fire.

When viewed from this vantage point, the decision to halt training exercises can be more fully explained by the complexity of addressing community concerns and the pending court cases. These pieces of the story were not mentioned within printed media sources as possible contributing factors to military decisions - until later stories that became available in 1999 & 2000. When information is presented in a disaggregated way it can diminish the impact of readers accessing and experiencing the comprehensive picture. The disclosure of additional details of a story has the potential to influence the adoption of varying viewpoints amongst interested community members, which otherwise may be impacted by highly published and reinforced claims such as the excellence of the Army's commitment towards environmental stewardship. Thus the fuller story has the potential to provide readers with critical context for shaping opinions, core foundations for understanding decision-making, and the inspiration for engaging or participating in social action processes. In later stories, the court cases are mentioned as an afterthought - disconnected from the Army's decision to suspend training in order to carefully steward the land by consulting with USFWS regulatory agencies. The significance of the management of information that the Army employed in this instance – is that they were able to retain the presentation of their work as responsible and community oriented. Essentially, they were able to shape this potentially negative opportunity to restore the faith of the public in their stewardship activities. Each media source that told and retold this story – did not connect the compelling motivations behind the Army's reasoning to shut down training.

The time frame spanning the years between 1998 and 2000 illustrates the differences between media and storytelling representation of the complexities at Mākua. The content of media sources or the absence of framing context, plays a critical role in influencing public

participation in cases like Mākua that entail controversy over land use and opposing perspectives regarding the impact of these measures on the community. It appears that the court cases became the advent of Mālama being granted "standing" by virtue of Earthjustice's legal representation of their grievances.

> Standing is not the same as being covered or mentioned in the news. (It) refers to a group being treated as an agent, not merely as an object being discussed by others. Front the standpoint of journalists, the granting of standing is anything but arbitrary. Sources are selected, because they speak for serious players in any policy domain: Individuals or groups who have enough political power to make a difference in what happens. Many journalists recognize that their choice also enhance or diminish the power of those to whom they offer or deny standing. Gaining standing, is both a strategic goal in its own right for a movement and provides it with a platform for increasing the prominence of its preferred frames. (Gamson 2007:251)

But possibly due to the neophytic entry of the Earthjustice's influence, the central perspective of the media presented story was primarily based on military interpretations of the matter. After perceiving the large variance of narratives available between the media and interviews that the, "individual or collective actors…are all a part of the gallery for the mass media arena…(and) the messages that (their) supporters hear cannot be ignored" (Gamson 2007:243). The construction of the history of place and of actor involvement is core to broadening awareness of issues, and advancing the possibility of diversifying the power structure. The primary viewpoint that gained standing during this season of the struggle appears to be the heroic and self-sacrificing nature of the Army's neighborly act to suspend training.

CHAPTER 5: 2000-2001 POWER OF A NARRATIVE: COURT STORIES

While printed media and oral interviews about events that spanned 1998-1999 demonstrate distinct differences in the storyline of Mākua, media coverage after this period was permeated with detailed contextual data about the content of legal proceedings and periphery activities that were connected to the cases. The coverage of events from 2000 until September 2001 illustrated three main aspects of movement activity. During this time the legal strategies broadened public awareness of Mākua locally and nationally, influenced the visibility of particular claims regarding the land, and activated the involvement of political representatives (state and federal).

In response to the Mālama & Earthjustice initiated court cases, military representatives attempted to settle both of the court cases by complying with ESA and NEPA regulations. In order to respond to ESA regulations, they consulted with the USFWS to, "ensure protection of 32 endangered or threatened plants and animals" ((Bakutis 1999g). As a result of this process the USFWS issued a jeopardy ruling, clearly stating the negative impacts of continued training on endangered species. On September 1999, the Army aimed to comply with NEPA by agreeing to study the impact of training via an Environmental Assessment (EA).

The completion the EA was a convoluted process that involved multiple drafts, public commentary periods, and dynamic changes in estimated completion dates. Two drafts were submitted in 2000 (April & September) (Bricking 2000). Within these drafts the Army addressed environmental concerns by promising a reduction of troop numbers, the restriction of weaponry, and the continuation of their stewardship program. They concluded that with these adjustments there would be no cumulative effect on the environment to warrant concern, or trigger the need for engaging in a long EIS process. There was much public opposition to conclusions that training would not impact the environment, and in response to community

resistance the Army elected to extend commentary periods (Gordon 2000j, Gordon 2000h). Military officials noted that their actions went beyond their legal obligations (Gordon 2000i), and that through this process of gathering information they, "really learned a lot … and (the) knowledge (gained) will help to make (the military) even better stewards of the land" (Gordon 2000i). The final document, entitled the "Supplemental EA" (SEA) was revealed on December 14th - after more than two years of study (Gordon 2000k). Within their findings the Army issued a "Finding of No Significant Impact" (FONSI) (Gordon 2000j). The Honolulu Advertiser summarized the matter in this way, "The Army loves the valley. Its sweeping contours provide a natural barrier for deadly ammunition. Soldiers can blast away without fear of harming anyone." (Gordon 2000j). Presenting a FONSI conclusion meant that the military had addressed the legal requirements of the final court case and that they would not be investing time in an EIS process. The FONSI announcement was coupled with a declaration that they would resume training in three months.

The SEA (or final EA) also contained sections that addressed the Army's commitment to cultural stewardship, reviewed the impact of the court case on troop readiness, and presented the lack of alternatives to the training grounds at Mākua. Major General James M. Dubik, commander of the 25th ID and the U.S. Army Hawai'i commented about cultural concerns by expressing that,

> the Army is committed to protecting both the land and culture of Hawai'i and the sons and daughters of this country. It is my belief that both of these things can be executed in harmony. This is an initial decision. It is a modified return to training. We expect and welcome more comments. (Gordon 2000j)

To lend moral weight to their findings, he further mentioned that, "Military units have not used the valley for two years, (causing) a slow erosion of company level proficiency that Pentagon officials have noticed" (Gordon 200j). However, information quantifying and describing the

Army's definition of eroding troop readiness was declared classified, and deemed inaccessible for public viewing (Gordon 2000n). The exorbitant costs of transforming alternative training locations to fit their needs, or providing transportation to currently existing alternative training locations were cited to explain the infeasibility of using other sites beyond Mākua.

The final SEA was revealed during a briefing held with interested community members on December 14th (Gordon 2000k). At that time, no public comments were accepted and another hearing for listening to community responses was scheduled for the following month (Gordon 2000k). There were volatile reactions to the perceived silencing of voices during the briefing, to the inadequacy of the work presented, and the lack of information presented regarding the impact of the history of training in Mākua (Gordon 2000j, Gordon 2000k). As members of Mālama, Earthjustice, ASFC, and HuiMOM pored over the SEA, the contents cast larger shadows of doubt regarding the Army's stewardship activities at Mākua. Some of the excerpts of the 1992 Environmental Review, which was submitted in the SEA, included information that,

> the military had used disposal pits for ordnance returned from the Vietnam War in the late 1960's and early 1970's. In 1982, the Army destroyed 350 900-pound napalm bombs and large amounts of phosphorous, (as well as) excess mustard gas. (A) minimum of 5,243 tons of ordnance and other hazardous waste had been burned explored, or somehow disposed of in the valley (without much documentation about the process). (And that) approximately 50% (2,621.75 tons) of the total potential hazardous wastes burned at the Mākua Military Reservation can be considered as posing a threat to the population and ecosystem, via migration in one of the pathways: groundwater, surface water, soil and air. Lead, arsenic, and mercury have all been found in the soil. In noting that no groundwater sampling had been done, the survey said contaminants could leach from the soils in as little as 27 years, but as long as thousands of years. (Gordon 2000m:A5)

William Aila, from HuiMOM, remarked, "They've repeatedly told us, for years, that there were no records about any of this. I was going nuts when I read this stuff. They've lied to us." (Gordon 2000m:A5). Yet despite publishing this in the SEA, Alvin Char, chief environmental

officer for the 25th ID, "said he could not find information to back up the statement in the report. Char said the review may have misquoted documents in its review for the EPA" (Gordon 2000m:A5). Essentially, the reports (EA & SEA) created as a result of the legal strategy, increased the visibility of opposing claims to military stewardship at Mākua. As public awareness and access to information about the military uses of Mākua increased, the potential impacts of those uses on community health afforded a sense of validity/credibility towards concerns over military land stewardship.

According to media coverage, dissatisfaction with the process continued to plague the Army, and community advocacy for the initiation of a comprehensive EIS process began. Less than a week after the Army's briefing, Mālama and Earthjustice filed another lawsuit challenging the adequacy of the EA results and the FONSI determination (Gordon 2000l:A1). Sparky Rodrigues, a member of Mālama, said, "Within the Hawaiian community, the military has had an impact on our life here for years and years. The social impacts within our community of their presence have not been addressed" (Gonser 2000d:A7, Rodrigues 2008). He went on to explain that "military presence and training on the coast (is a form of) indirect social violence", and that he believed that the completion (of an EIS) would look at the social impacts of the military's use of Wai'anae" (Gonser 2000d:A7; Rodrigues 2008). The lawsuit contested the Army's claim that training posed no impact on the human environment and sought to compel their commitment to the EIS process. The case was also tied to a successful endeavor to request a temporary injunction[1] that legally and formally prevented training until a federal court hearing could review

[1] Injunction requests can be made in court – and essentially halt activities proposed by the defendants in these cases. If a court upholds an injunction, this process legally authorizes the request, and holds the defendant legally accountable for lack of compliance. The following description is an example of a possible injunction process. If the Army released an EA, declared a FONSI, and wanted to resume training, and Mālama wanted to challenge their right to return to training – they could request an injunction. In this case, Mālama could sue the Army about

the merits of the case. Judge Susan Oki Mollway was assigned to the case. In the midst of this pressure, just prior to the hearing the Army withdrew their completed SEA and removed their FONSI designation. Later during the hearing the Army argued that the lawsuit was premature, since their final SEA/FONSI ruling had not been "officially" released. The judge reviewed the case, and set a deadline for the Army to make their final SEA (EA) recommendations.

5.1 Court Stories: Impacting Political Platforms & Public Awareness

The shift in momentum activated the involvement of political stakeholders. The public dialogue prompted by the court cases began to grow and expanded to include participants that were community members and government officials (Blakeman 2001; Gonser 2001b; Gordon 2001d; Gordon 2001c; The Honolulu Advertiser 2001l; Wright 2001a; Wright 2001b)

> Before decisions can be made on any given issue, the problem must first come to the attention of political decision makers. While increased agenda salience does not necessarily assure desire outcomes (Burstein 1985), it is a necessary precursor to the development of public policy that increases the likelihood of legislation (Baumgartner and Jones 1993; Cobb and Elder 1975; Kingdon 1984). Moreover, it is at the agenda-setting stage the interest groups and social movements are thought to have the greatest influence (Andrews and Edwards 2004). (Johnson et al. 2010:2268)

The court case appeared to elevate the issues at Mākua to gain standing in the media, and this continuous volume of coverage reached a tipping point in motivating the participation of government officials. Even the influential congressional senator, Daniel Inouye commented on the impact that this resistance might have on the prospects of future military funding for Hawaiʻi, and on the consideration of potentially relocating the 25th ID (Gordon 2001b). To mitigate the resistance to training, the Army planned a public educational forum (Open House)

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the adequacy of their FONSI, and request an injunction to prevent the Army from resuming training until the courts determined the results of the case. If the injunction was granted, the Army would not be allowed to return to training, and would have to wait until the conclusion of the pending court case.

and created an invitational advisory council to discuss matters of central concerns. The Open House drew 150 community members, and 500 were in attendance at the hearing where community members could provide their viewpoints regarding the Army‘s use of Mākua (Gonser 2001b).

On May 15th, in accordance with the mandated deadline set by the federal judge, the Army issued their decision. They submitted their original SEA, confirmed the FONSI, and asserted that they were not going to complete an EIS. The content of the SEA repeated the conclusion that the EIS was unnecessary, costly, and time-consuming. Army claimsmakers repeated the common framework that they had "confidence that (the EA) supports (the) view that (they) can return to training and still care for the lands entrusted to (their) care" (Cole 2001e). This announcement was again coupled with the declaration that training would commence in a few short months.

The military started to ramp up for live-fire training while concurrently providing an exhaustive defense for their position. Their explanatory framework explained the urgent need to access training grounds because of the cumulative effects of declining troop readiness, and the fact that "soldiers' lives are a passionate issue" (Cole 2001b). In response to community concerns over destructive fires they, "pledged to eliminate four types of ammunition (which contributed) to 60% of the fires", and created a program for fire control (Cole 2001b). To address lingering doubts about potential groundwater contamination, the community was assured that there were no contaminants, while Inouye proffered to, "seek federal money to monitor (the) ground water" (Cole 2001b). In an effort to care for community safety they agreed to transport ammunition and, "troop convoys along Farrington Highway during nonpeak periods"(Cole 2001b). The SEA also responded to apprehension about the impact of training on cultural and environmental resources (at that time – this included -54 archaeological sites and

34 endangered species). The acreage of the training area was reduced, promises were made that they would create educational forums designed to teach soldiers about the resources and cultural values, and military officials affirmed that their care management team was comprehensive (Cole 2001b). Lastly, the SEA cited the inability to use existing alternatives to train because of the prohibitive costs to transport troops, and the excessive costs of time and money to transform existing land for training facilities.

On the heels of the Army's final SEA disclosure, Earthjustice lawyer David Henkin revealed disturbing news about the SEA contents. The Honolulu Advertiser briefly mentioned his charges that the Army had removed vital information from their new SEA (Cole 2001e). The story was not included in any of other newspapers that were collected.

But during interviews – a disconcerting story that provided more depth to this event emerged. David Henkin spoke about the deletion/absence of information from the SEA, and mentioned glaring inconsistencies that misrepresented central elements necessary for sound decision-making. He recalled that the first SEA released in September 1999 included recommendations from USFWS consultations. The document included a "jeopardy ruling" that presented an analysis of the potential for military training to drive species to extinction. The jeopardy ruling stated that, "the potential impacts associated with activities at Mākua to threatened and endangered species **cannot** be eliminated or minimized to insignificant of discountable levels" (Cole 2001e). However, when the Army presented their final SEA, critical alterations had been made to the jeopardy ruling. The Army edited and buried the jeopardy ruling between hundreds of pages of testing results (Henkin 2008). The USFWS's recommendations were included, but the portion of the report that contained the jeopardy ruling was eliminated. Essentially, they deleted the section that forecasted that continued training at

Mākua would eventually push 30 of the 34 endangered species that were known at that time towards extinction (Cole 2001e).

To capitalize on this event and maximize dramatic effect, Henkin prepared a large presentation board of the USFWS report for a public hearing. He covered the "jeopardy ruling" which stated the continued training would push 30 species into extinction – with white velcro – making it invisible. He then displayed the presentation board as an exhibit of what the Army provided in their final SEA, and said that something was dreadfully missing with this report. With a flourish, he whipped off the velcro that covered the true "jeopardy ruling" – and triumphantly declared that this vital omission was made by the Army in their SEA.

In light of the contextual evidence that revealed the vulnerability of the environment at Mākua and the richness of biodiversity, the Army's position remained unchanged. Despite undergoing federally mandated consultations which revealed an unfavorable jeopardy ruling, the Army continued to advocate for live-fire training that included the use of mortars, which were documented to greatly increase the likelihood of destructive fires. Military claim makers resoundingly reaffirmed in media coverage that it was necessary to continue training at Mākua in order to address the need for military readiness and maintain National Security.

Yet the act of omission left the Army in an unfortunate predicament, despite the fact that they had just hosted a public reception to encourage community trust in their efforts towards responsible environmental stewardship. The altered final report cast a shadow of doubt over the Army's case. During this precarious time juncture, Earthjustice requested a settlement from the Army. According to the settlement, the Army would agree to continue a moratorium on training until U.S. District Judge Susan Oki Mollway ruled on a formal injunction request on July 9th(Cole and Gordon 2001). The Army heartily accepted this formal agreement as a show of goodwill towards the Mālama plaintiffs. The historical context sheds light on the probable

reasons undergirding the immediate compliance of the Army with Earthjustice's legal request. There were no long lasting negative media consequences that affected the Army in this case, and there were no legal repercussions for the lack of transparent reporting. The jeopardy ruling faux pas was not published widely or in a timely manner in newspapers, and reporting on the Army's agreement to Earthjustice's injunction request overshadowed the coverage of the omission.

5.2 Court Stories: Reflective of National Trends in Environmental Advocacy & Military Expansion

In the span of time, between the settlement and the scheduled court hearing, a compelling article addressing the topic was published. The crux of the article explained that the Army's struggles at Mākua were also reflective of larger trends nationally and internationally. This larger pattern of struggle appeared in a cover story that reviewed that,

> environmental and other constraints to training have imperiled the readiness of U.S. fighting forces. One of the greatest concerns for the military has been the Endangered Species Act, which has provided ammunition for environmentalists seeing to protect rare species found on the vast tracts of land laid claim to by the military for live-fire training. (Cole 2001f)

In the case of Mākua, the Army denounced, "its inability to conduct training" as the prime culprit for the cumulative erosion of troop readiness (Cole 2001f). Which was reported as the, "same argument the military has been making elsewhere – with less and less success" (Cole 2001f). Defense Secretary Donald H. Rumsfeld lamented the state of deteriorating military readiness, which came as a result of mounting challenges to their use of training sites. Simultaneously Captain Phil Lenfant, director of training for the Pacific Fleet pleaded the case for the need to " level the playing field (as a defense against the) exponential increase in laws (that they can't manage)" (Cole 2001f). To bolster that opinion, "one congressman argued that as a result of 'federal regulations and rules and red tape' the military is increasingly faced with

'defending more lawsuits than they are defending our nation'" (Cole 2001f). The burgeoning of statements like these indicate the need for a shift in framing Army training needs in a way that would be relevant and appealing to a broader audience. It also pointed to the waning efficacy of using "national security" as a sound argument to substantially influence decision-making in legal contests.

David Henkin was asked to provide his perspective on this growing national dilemma, which indicates that through his work he had become an elevated, respected, and validated source of information (Coleman 2001f). In this instance, he was given standing in media to provide insight in matters that cover struggles over military training grounds. To respond to the petitions for expanding access to training grounds via legal exemption he said, "When, in the interest of pursuing their agenda, (the military) violates federal laws, they are undermining the very system they are theoretically there to defend…. The bottom line with respect to land is the Army is not above the law" (Cole 2001f). Coupled with the growing body of critique of the impact of military practices on the environmental, cultural, and community health, the Army appeared to be losing ground or experiencing inertia and stagnation in attempts to successfully retain lands for training.

When the court hearing date arrived, a sea of eighty Mālama Mākua supporters flooded the outside of the courtroom, and was the first time that protests were covered in the media since the start of the court case in 1998. This is not unusual because, "the vast majority of demonstrations are ignored by the mainstream media; the very large ones are covered. (But) when the volume of coverage for an issue is large, pertinent protests, even small ones, are more likely to attract coverage" (McCarthy et al. 1996:496). The court case experienced a fairly high volume of media coverage because it had the potential to impact military training activities, and according to government officials this case had the possibility of impacting military economic

investments of training in Hawaiʻi. In McCarthy's study, they found that "demonstrations related to the economy (are) almost 6 times more likely to be covered" (McCarthy et al. 1996:492). Despite the fact that the hearing was scheduled on a weekday, advocates arrived en masse bringing Hawaiian nation flags, ti-leaf (symbolizing a desire for continued protection of the sacredness of the land), and voices united in chants of resistance for the state of affairs. State Governor Ben Cayetano formally announced his support for live-fire training citing that, "the Army, and in particular the federal government, has gone to great lengths to address concerns….If we want to keep the Army in Hawaiʻi, then we need to continue to make Mākua available" (Cole and Gordon 2001). During the hearing, Army attorney Col. David Howlett deplored the cumulative effects of decreased military readiness as a result of the lack of training at Mākua, while Earthjustice attorney David Henkin advocated for the completion of an EIS to increase opportunities for the community to participate in addressing serious cultural, environmental, and social health threats.

In the days following the court case, while both legal parties awaited the judge's decision, a complicating factor was introduced. An announcement was made about the possible selection of Hawaiʻi as a site for the placement of Interim Brigade Combat Teams (IBCT), a.k.a. the Stryker Brigade Transformation (SBT or Stryker). The selection process would be tremendously competitive because it would be connected to an influx of federal funding for each state participating in the transformation. If selected for the SBT, Hawaiʻiʻs role in National Security Defense would increase, the military population would increase, access to training grounds would need to be expanded, and the economy would receive intensive federal investment in military funding for state projects that would prepare and maintain SBT sites. In preparation for the competitive process, the influential Senator Inouye pronounced that, "(Mākua) is integral to the maintenance of forces in Hawaiʻi…without Mākua, I think you could absolutely say to

yourself: 'Goodbye, Interim (brigade)'" (Cole 2001g). The Stryker placement process was used as a political helm to navigate and influence the Mākua case in favor of the military's position.

A mere five days prior to the resolution of the court hearing via Judge Mollway's ruling, the selection of the next site to host an SBT was published (Cole 2001i). Despite Inouye's tactical framing strategy that asserted that the availability of Mākua, and the conclusions of the court regarding its use, were essential factors that would influence the placement decision, Hawai'i was chosen for the SBT. An editorial suggested that,

> (This decision) helps stabilize Hawai'i's role as a home for the Army. Our national security depends on a modern, first class, 'forward' presence in the Pacific. Any military presence comes with its downside, of course, in terms of social and environmental impact. But for the moment, and for the foreseeable future, military spending remains an important pillar of our economy". (The Honolulu Advertiser 2001k)

Speculations by community members, state and federal officials varied in postulating the effect that this would have on the Army's use of Mākua. Editorials made connections to larger structures, such as military investment and federal funding, which could impact prospects at Mākua. Media coverage made it evident that a growing range of constituents engaged in debating, cautioning, forecasting, and influencing potential Mākua case outcomes.

5.3 Court Stories: Selective Visibility in Decision Making

Amidst the whirlwind of pronouncements anticipating the increased role of Hawai'i in national defense, Judge Mollway issued her decision. She granted an injunction that halted all live fire training, until a final hearing scheduled for October 29th (Cole 2001p; Cole 2001j). This prevented "the Army from conducting live ammunition training until (they either complied) with the impact statement", or the ruling regarding the EIS lawsuit was resolved (Cole 2001j). To support her decision she explained that an EIS,

> is necessary if proposed actions are 'highly uncertain'. Here, the scientific evidence presented in the Army's own studies reveals the potential for adverse environmental effects. Uncertainty exists, not over whether the environment will be affected, as that is certain, but over the intensity and nature of those effects. (Cole 2001j)

She argued that the Army did not examine the potential for damaging the cultural and environmental resources, which was problematic because the Army reported that, "the potential for stray ordnance to (impact those) resources (was inevitable) if training resumed" (Cole 2001k). Lastly, she addressed the core foundations that the Army defense team set forth in their court submissions.

> Mollway questioned (the) logic that, 'they could not afford a six-to-12-month delay in training'. (She) noted that the Army voluntarily suspended training in 1998, and last December issued a 'final' environmental assessment and finding of 'no significant impact,' but subsequently withdrew it to address community concerns. The voluntary withdrawal caused a five-month delay in the case. The Army cannot now come into this court and say that national security will be jeopardized by a delay of a few months to determine this case. (Cole 2001k)

In light of this less than favorable ruling, military officials offered that they would pursue alternative training options, but remained concerned about the challenges those represented. They emphasized a common military framing of the issue that the Army had an urgent need to maintain readiness despite barriers that the lack of access to Mākua created.

Interestingly, the discourse in the editorial sections following Judge Mollway's decision shifted slightly from proclaiming the inevitability of training at Mākua to exploring the expanding challenges to live fire training. One poignant writer asked, "Is Hawai'i ready for an O'ahu without the Army?" (The Honolulu Advertiser 2001l). Other editorials reaffirmed linkages of the Mākua case to other successful challenges to Army practices in Kaho'olawe, Okinawa, and Puerto Rico (Vieques).

During the time period between 2000 and September 2001, newsprint sources consistently covered the EIS court case. This media treatment that continued past this period,

eventually expanded the audience base that was exposed to the dimensions of conflict. Stories conjectured about court case impacts on military readiness and Hawai'i's economy, and were repeated in Associated Press articles, National Army News, and the Earthjustice court case updates website. As a broader base of spectators became introduced to the struggle at Mākua, the widening degree of involvement of the local population of Hawai'i also became visible in many forms. These included strong representation at public scoping processes hosted by the Army and local organizations, public protests during court case hearings, and an increased number of editorial submissions (Cataluna 2001; Cole 2001h; Gordon 2001f; The Honolulu Advertiser 2001h; The Honolulu Advertiser 2001l).

Between 1998 –2006, there were a total of 383 articles that mentioned the activities at Mākua, and 2,164 claims were coded. The Honolulu Advertiser published the largest share of articles regarding Mākua and represented 59% of the total, or 226 individual articles. News coverage reached a peak in 2001, where 110 or 28.7% of the total articles were printed in that year alone. The second highest peak in news coverage occurred in 2003, these stories tracked another contentious fire at Mākua, and the debates over the Army's environmental stewardship (via compliance with USFWS consultations and the temporary training cessation which complemented that process).

Figure 2 Article Distribution by Year & News Source

Year	Honolulu Star Bulletin	Honolulu Advertiser	Hawaii Army Weekly	Honolulu Weekly	Grand Total
1998	1	6	5	1	13
1999	2	20	8	2	32
2000	2	28	11	7	48
Pre 9-11 2001	12	72	16	8	108
Post 9-11 2001	2				2
2002	4	17	8	1	30
2003	9	35	10	8	62
2004	6	21	3	1	31
2005	7	7	4	3	21
2006	8	20	5	3	36
Grand Total	**53**	**226**	**70**	**34**	**383**

In order to identify the type of engagement that occurred within the media, appeals were organized into 18 coding categories and each appeal was attributed to one of 10 claimsmakers (See Figure 3 Below). Out of the 2,164 appeals that were recorded, 905 or 41.8% of the claims were made by Army spokespeople. The next group of claimsmakers represented was those generally labeled as "Other Community Member" who comprised 585 or 27% of the total claims. Mālama Mākua (188 or 8.7%), and Earthjustice (154 or 7.1%) were the next highest represented.

Figure 3 Claimsmaker Categories

Claimsmaker Categories
American Friends Service Committee
Army/Military
Earthjustice
Fed Government Official
Hui Malama o Makua
Koa Mana
Malama Makua
Other Community Member
Staff Writer
State/Local Government

Figure 4 Appeal Distribution

Appeal Types	Total
A1: Military practice protects/maintains cultural stewardship practices	143
A2: Military practice Inhibits/threatens cultural stewardship practices	91
B1: Anti EA/ Anti EIS	37
B2: Pro EA/ Pro EIS	166
C1: Community Historical Precedence for Use of Land	0
C2: Military Historical Precedence for Use of Land	9
D1: Responsible/Adequate Environmental Stewardship by Military	403
D2: Poor/Inadequate Environmental Stewardship by Military	230
E1: Military funding benefits Hawaii's economy	32
E2: Military funding drains Hawaii's economy, Alternatives are preferrable	1
F1: Military presence negatively impacts community health	67
F2: Military presence positively impacts community health	120
G1: No Alternatives to Makua/National Security/Military Readiness	404
G2: Yes Alternatives to Makua	174
H1: Satisfactory Community Input/Adequate Community Support for military practices	142
H2: Unsatisfactory Community Input/Inadequate Community Support for military practices	48
I: Kahoolawe	26
J: Other Movements	71
Grand Total	**2164**

The volume of print media accorded to the legal battle eclipsed the coverage of all other events including organized protests, commemoration activities, art showcases, or other grassroots efforts at educating the general community about the cultural history or alternative stewardship options for Mākua. According to Figure 5, the appeals that were most printed in the newspaper included debates over the quality of environmental stewardship by the military (Appeal D1 and D2), and the argument over the availability of alternatives to accomplishing military readiness/national security standards outside of the use of Mākua (Appeal G1 and G2). These claims directly relate to the court appeals process and occupied 56% of the news coverage of Mākua (or 1,211 out of 2,164 claims). In both debates (Appeal D1 vs. D2, Appeal G1 vs. G2), the Army claimsmakers were represented four times more than the highest number of opposing claims. For almost every paired appeal type (i.e. A1 & A2), Army representation in the media overwhelms opposing views at a minimum ratio of 2:1.

Figure 4 Appeal Distribution by Claimsmaker

Appeal Type	Army/ Military	Other Community Member	Målama Makua	Earthjustice	Staff Writer	Fed Gov't Officials	State/Local Gov't Officials	AFSC	HuiMOM	Koa Mana	Grand Total
A1: Allows Cultural Practice	113	11	1	3	9		4			2	143
A2: Inhibits Cultural Practice	2	38	17	18	2	2	2	4	6		91
B1: Anti EA/Anti EIS	32	3			1		1				37
B2: Pro EA/Pro EIS	25	29	51	36	1	11	11	1	1		166
C2: Military Historical Precedence	5	3			1						9
D1: Good Environmental Stewardship by Military	315	54		6	15	2	11				403
D2: Poor Environmental Stewardship by Military	16	67	36	55	33	10	3	7	3		230
E1: Military benefits Hawaii's economy.	1	13			6	8	4				32
E2: Military funding drains Hawaii's economy, Alternatives are preferrable			1								1
F1: Military is Bad for Community Health.		42	12	3	5		2	3			67
F2: Military is Good for Community Health	30	67			5	6	11			1	120
G1: No Alternatives/National Security/Prepare Soldiers	251	104	3	3	14	18	11				404
G2: Yes Alternatives	5	58	39	24	6	33		5	4		174
H1: Satisfactory Community Input	104	17	7	2	7		4			1	142
H2: Unsatisfactory Community Input	1	21	18	3	2	1	1		1		48
I: Kahoolawe	1	15			5	2	1		2		26
J: Other Movements	4	43	3	1	12		2	2	4		71
Grand Total	**905**	**585**	**188**	**154**	**124**	**93**	**68**	**22**	**21**	**4**	**2164**

Note: Claimsmakers that made the highest number of claims per appeal type are highlighted in green. On the far right, the two most highly debated appeals are highlighted in green (D1 vs. D2, G1 vs G2).

The concentrated increase of coverage regarding the legal struggle provided limited visibility of alternative claims made by HuiMOM, ASFC, and Koa Mana. While points that revolved around NEPA & ESA guidelines occupied the core of news reporting, other claims that were not relevant or applicable to the court cases were minimally presented. These marginalized claims included statements made about the impact of training on cultural practice, quality of life, access and freedom to practice Hawaiian religion, Hawai‘i‘s economic dependence on military spending, and the desecration of Mākua. Most of these claims, and the fullness of explanation behind these claims were only visible through personal interviews with participants.

These observations of the media coverage at Mākua provide variance towards the conclusions made by Patricia Widener. The context of her writing discusses the impacts of transnational campaigns on oil pipeline construction, but the process that she describes is applicable to the case at Mākua. The Mākua struggle echoes and affirms her observation that

"dignity in life" claims become obscured in the effort to translate demands to broader audiences, and the result is the minimization of a variety of claims (Widener 2006:28). In her study she also concludes that, "the scientific contributions of domestic groups become mostly vignettes, and local perspectives become anecdoctal in the larger debate", and that this shift favors the opinion of experts versus the general community (Widener 2006:28). In the case of Mākua, the expert opinions (i.e. Army spokespeople) received the largest concentration of influence and standing in newspaper coverage, and claims that fell outside of the parameters of legal endeavors became marginalized in representation. These conclusions are in line with Widener's study, but the Earthjustice legal experts were not accorded the same degree of influence. Rather general unidentified claimsmakers were provided more media exposure than those legal counterparts. This finding suggests the possibility of grassroots mobilization efforts maintaining a narrower set of claims with a steady degree of exposure in the media.

As newsprint sources covering the court case expanded visibility of the conflict, the increased involvement of the local population was paralleled by a growing participation of political representatives at every level of governance (City, State, and Federal). Prior to the legal case – the conflicts at Mākua were a fringe issue, that were not core to decision making or voter deliberations in considering candidates for office. Yet when the issue increased in public prominence, it influenced the positioning of political platforms, impacted the framework for conversations around economic decision making, and at times became a component of election questions asked to candidates pursuing federal offices (The Honolulu Advertiser 2001p; The Honolulu Advertiser 2002e). This emerging pattern of importance drew the attention of the Honolulu City Council, the National Historic Preservation Council, the Office of Hawaiian Affairs, and eventually state and federal legislators (Bakutis 1999b; Cole and Gordon 2001; Davis 1999; Gordon 2001b; The Honolulu Advertiser 2003a; Waite 1999). However this involvement

initiated only after continued coverage of legal disputes presented the potential for decision making to detrimentally impact Hawaiʻiʻs economy and polarize public opinion. Government officials undertook measures to understand and influence the outcomes at Mākua. Some of these exploratory measures included participation in public hearings, invitational tours at Mākua, and the creation of informal community surveys (Coleon 2001; Gordon 2001c; Viotti 2004)

Between 2000 and 2001, the legal strategies ushered in dimensions of success and struggle. While legal experts and community members involved in the case - gained standing and prominence, there was a simultaneous shrinking of the diversity of claims and spokespeople represented in the media. The legal battle mobilized the involvement of government officials, and was concurrently tied to a growing trend of efforts that stymied Army efforts to secure national security via access to training grounds.

CHAPTER 6: 2001-2002 SEEDS OF SETTLEMENT: POTENTIAL FOR COMMUNITY VOICE & THE RISE OF NATIONAL SECURITY

The 9-11 attacks that occurred a month prior to the final court hearing date (October 29th) altered the landscape of local and national politics, and transformed the trajectory of the decision making at Mākua (Cole 2001j). The federal court hearing had the potential to determine that the Army needed to complete the EIS before resuming training, and the EIS would have been used to determine the parameters of access to and use of Mākua. But the aftermath of 9-11 created an exogenous shock that advanced moral and political platforms regarding the urgency of training, and eventually had an impact on diminishing the general public's awareness and the visibility of issues at Mākua. Post 9-11 decision making processes influenced the pending NEPA court case, shifted the focus of media coverage, and brought a swift and sharp transition to the ceasefire at Mākua. Two weeks after 9-11, the Army declared that they were considering an emergency training request.

> 'The president made it clear that the U.S. military should be ready and the Army has said for three years, ever since halting training in September 1998, that we need Mākua to ensure our training proficiency', said 25th Infantry and U.S. Army Hawai'i spokeswoman. (Cole 2001p)

On October 4, 2011, three and a half weeks after 9-11, in the midst of public shock and mourning, the Army and Mālama Mākua reached an out of court settlement (O4S).

In the weeks following the attacks, the Army made petitions towards Mālama board members and Earthjustice to pursue an out of court settlement. In response to the attacks the Army had begun to experience pressure from the Pentagon to gain access to every available training site. According to interview sessions with Earthjustice & Mālama Mākua members, it appeared that the 25th ID was given a larger degree of latitude to address their goals of gaining training access, and were more willing to proceed into an out of court settlement to fulfill

immediate training needs (Dodge 2008; Henkin 2008). In light of the circumstances, Mālama & Earthjustice members gathered to discuss the risk and potential outcomes of the court ruling in light of the attacks and the shift in national sentiments supporting military action. As a result of these sessions, and the renewed interest in revisiting and adjusting the terms of engagement by each legal party, the O4S was forged in a rare, extremely expedited process of negotiated proceedings. The Army was able to immediately return to training at Mākua, while Mālama used this as an opportunity to formalize the Army's commitment to the EIS process and other agreements that would not have been possible within a court ruling.

The events of 9-11 substantially shifted each party's willingness to compromise due to perceived tactical advantages and disadvantages. For the Army, a sense of alarming urgency compelled them towards conceding to the EIS process and permitting broader access for the community's entrance into Mākua's gates. Those decisions served as gateway concessions that opened immediate access to Mākua's training grounds. Prior to 9-11 these possibilities had been deemed unnecessary and unavailable options, but post 9-11 they were converted to accessibly feasible options. For Mālama, the tangible benefits of EIS fulfillment and the tenuous situation of their vulnerable position in the wake of growing National Security sympathies influenced their movement into an agreement. In return, each party momentarily released specific elements of their arguments that had been previously non-negotiable, in order to address short-term goals and long-term objectives. The Army ceased their resistance to the EIS process and agreed to move forward to comply with NEPA regulations. This step immediately reestablished training access and provided an avenue to demonstrate their consistently self-touted excellence as environmental stewards. Mālama temporarily released their insistence that Mākua was an inappropriate place to train, and their advocacy towards the identification and adoption of alternative training locations. Mālama allowed the Army to return to training, however, they

simultaneously mandated the collection of critical information that they hoped would support their argument in the long run via cultural surveys, marine studies, surface/sub surface archaeological surveys, off site contaminant reports, and long term monitoring.

The October 4th settlement, or O4S, contained compromises from both legal parties on issues regarding training and troop transportation, EIS completion, cultural and environmental impact surveys, and regular community access to and participation in the regulation of training. A general summary of the O4S is outlined below as it was published in the Honolulu Advertiser.

- Soldiers with 25th Infantry Division (Light) and the U.S. Army Hawaiʻi, will be able to immediately resume live fire exercises in Mākua valley.
- The Army will be able to conduct 16 company level exercises in the first 12 months, 9 in the second, and 12 in the third
- The lawsuit against the Army will be dismissed and the federal injunction against training lifted.
- Mālama Mākua can expect the Army to conclude an EIS within three years, and if not, the Army will suspend training until the study is done.
- Air, soil, and groundwater sampling will be done, and if necessary long term monitoring will begin.
- A $50,000 technical-assistance fund will be provided by the Army to allow community groups to hire independent experts to review data included in the EIS.
- Unexploded ordnance will be cleared for 3,500 feet mauka of Farrington Highway.
- Ordnance will be transported by air, whenever possible.
- Community observers will be allowed to witness training and inspect for damage afterward.
- Twice a month, cultural access will be allowed, as well as twice a year overnight visitation (Brannon 2001b)

Both parties issued public statements regarding their decisions to commit to the O4S. Earthjustice spokesperson Henkin reinforced Mālamaʻs position that training at Mākua was not necessary, while simultaneously acquiescing to training in response to 9-11ʻs impact.

> ʻWe have decided, in this time of national crisis, to not stand in the way of the Army, but we do not agree that it is necessary to train in Mākua,ʼ said Henkin, who characterized the deal as a great victory (Brannon 2001c)

The Armyʻs spokesperson commented that,

> 'This agreement represents a balance between our moral obligation to America's soldiers to be combat ready by conducting realistic training and our obligation to conduct that training in a way that protects the environmental and cultural heritage of the state that is our home,' Dubik said. (Brannon 2001b)

This reasoning echoed a common strand of framing that had been previously uttered to address advocacy for a return to training.

The first four paragraphs of the settlement addressed the elements that a favorable court ruling would have had the capacity to enforce: EIS completion and training limitations (Henkin 2008). The Army agreed to complete the EIS. Standard Army protocol allots 18 months for EIS completion, but Mālama members wanted to give the Army enough time to invest in a thorough analysis of their research, which could provide the community with rich data sets. Mālama was also concerned than an 18-month limitation would have the potential for yielding sloppy or rushed reporting. Instead they offered the Army a three-year time span for EIS completion within the O4S. Henkin mentioned that the Army negotiation team also requested a limited amount of training every year after the three-year period. He described Mālama's resistance to this request below,

> We did not want a situation – in which the Army might say – better some limited training at Mākua than none. We wanted them to commit to the EIS, to do a good job, but we also wanted it to come to a close. Which led to paragraph four. We want a completed EIS as soon as possible, but if they didn't finish it – no live training would be allowed until it was done. It creates the right type of incentive where the defendant has the key to their freedom. (Henkin 2008)

The O4S also included a segment discussing the guidelines for training exercises held at Mākua. During negotiations, the Army expressed their need to provide each of the 18 existing companies with one Combined Arms Live Fire Exercise (CALFEX) per year. Earthjustice countered by saying that there were alternative locations where training could happen outside of Mākua, and asked the Army to provide a minimum number of exercises that they needed to accomplish their mission (Dodge 2008; Henkin 2008). In response, the Army asked for a total

of 37 CALFEX's over the three-year period. Thus the first section of the settlement outlined the guidelines for EIS completion and live-fire training. But the O4S also navigated additional territory beyond the powers of a federal court hearing.

Every concession listed outside of the first four paragraphs would not have been within the power of a federal court judge to provide to the plaintiffs. Some of the areas of advocacy included addressing environmental restoration through cleanup and data collection, promoting community voice, creating guidelines for community safety, and setting precedence for cultural access. The advocacy for these additional measures is a testimony to the tenacious collective power of participants who gleaned lessons from previous movements including the work at Kaho'olawe, Waikāne, and other contested areas within Hawai'i and abroad. Mālama members had observed the problematic process of postponing cleanup until the completion of military training exercises. They had also witnessed the inaccessibility of funding resources for clean up or land stewardship once lands formerly used for training had been transferred from military use. Thus an integral part of their advocacy revolved around the demand for clean up measures to begin immediately and to be sustained for the entirety of the military's use of land. Another strong component of Mālama's negotiations included the mandatory collection of data via cultural surveys, archaeological surveys, and shellfish/limu studies. According to interviews, it was their hope that these technical studies could illuminate the historical effects of training on the community, and possibly affirm their position that continued military training would contribute to the degradation of cultural and environmental resources at Mākua.

The O4S also addressed the promotion of equal opportunity for community voices to be heard. Mālama incorporated this into the fifth paragraph of the O4S. They posited that logistical matters during EIS scoping processes had created unnecessary barriers to participation and diminished the attendance of those who would have otherwise contributed to the process.

They specifically criticized the convening of public feedback sessions that were scheduled at times and places (i.e. in downtown Honolulu on a Monday morning) that decreased accessibility of attendance for people directly impacted by those meetings. Mālama proposed the requirement that meetings that affected Waiʻanae residents should be held on the Waiʻanae coast during times that would allow the community to participate. The Army conceded. This request was the result of collective experience and observation over the years of involvement within the movement at Mākua and beyond. Similarly tied to the notion of creating platforms for every voice to be heard, Mālama advanced the structure for meaningfully including Hawaiian Language testimonies during scoping processes[2]. Due to the inconsistent treatment allotted to the Hawaiian language in state proceedings, scribes are not required to understand Hawaiian. They are permitted to summarize any comments made in Hawaiian as "inaudible" or "testimony given in Hawaiian". Depending on the format of the hearing, audio recordings of testimony are optional, and no record of the meaning behind testimony given in Hawaiian are compiled, translated, or reported. As a part of the O4S, Mālama members required that all hearings were

[2] The history of language in Hawaiʻi is contentious – because it is tied to colonial legacies of dispossession. In 1893 the Hawaiian monarch was overthrown and replaced with an oligarchy of foreign businessmen. In 1895 a counter-revolution occurred in an attempt to reinstate the original monarchy. After this revolution, many holidays that were formally celebrated in the Kingdom that asserted the autonomy and independence of the Hawaiian nation were banned. In 1896, the Hawaiian language was banned in schools, and in 1898 English replaced Hawaiian language as the official language of Hawaiʻi. Concurrently, schools that taught in the medium of Hawaiian language were divested of territorial funding and diminished, while all monies were reallocated for English language schools that flourished. In 1978 the Hawaiian Language was added back onto the state constitution, which recognized both English and Hawaiian as the official languages of Hawaiʻi. Despite this formal recognition, no procedural measures for processing and recording testimony given in Hawaiian were created. Thus the use of Hawaiian language during state processes are not always honored as valid avenues of communication that lend weight to trials, policies, procedures, etc. Sentiments expressed in the Hawaiian language are rendered invalid, because they are not always made accessible to the public via recording and translation.

to be recorded and translated. This act created an unprecedented standard for providing a structure that supported the Hawaiian language in state proceedings.

Mālama also attempted to create the foundations for understanding the impact of training on the health and wellness of the surrounding community within the O4S. Mālama members had studied previous environmental reports regarding Mākua, and knew that there were crucial gaps in information that the Army would not be required to address under the EIS. Therefore in paragraph six of the O4S, they requested additional studies to address those gaps, and mandated the inclusion of those results with the submission of final EIS. The specific studies that they requested were to be held to rigorous research standards and included a report on offsite migration of contaminants, a traditional cultural survey, a marine resources study, and a surface/subsurface archaeological survey. In the event that offsite migration of contaminants was confirmed, the next section of the O4S required the Army to provide long term monitoring of the impact. Furthermore, in an attempt to systematically evaluate the veracity and rigor of the studies that were completed, Mālama asked for technical assistance funding that would allow them to hire an independent contractor. "We said, frankly, we don't trust you, so if some independent expert that we hire says that you did a good study – that will increase public acceptance" (Henkin 2008). They explained that in order to level the playing field and help the community comprehend the technical aspects of reporting – this type of support was crucial.

In their advocacy during the settlement, Mālama also promoted the safety of people living along Farrington Highway, by demanding specific requirements regarding the transportation of weapons to the training site. They had discovered that if any accident were to occur that the bullets, mortars, and artillery shells could affect a blast radius of a quarter mile (Henkin 2008). Each time training was scheduled, this weaponry would place the entire community in jeopardy – as it was transported past schools, the mall, the Waiʻanae Coast

Comprehensive Health Center, houses, community centers, and grocery stores. Therefore paragraph 11, stated that those explosives would be flown in by airlift, and if complicated weather conditions precluded this possibility, they would only travel in non-peak periods along the highway.

The closing elements of the O4S agreement directly tackled the issues of community access to the training grounds. Firstly, the Army was required to remove any unexploded ordnance found within the vicinity of cultural sites, and clear all unexploded ordnance found within 3,500 feet of Farrington Highway. Secondly, the Army was compelled to allow the public to access Mākua twice a month, and provide overnight access twice a year. Finally, during each live fire training session, a member of Mālama would be allowed to observe from within to ensure that the military followed their own procedures to safeguard cultural and biological resources.

Training resumed at Mākua on October 17th, and the first live fire exercises were held shortly thereafter. After the O4S, articles discussing military readiness and training preparation emerged. Within that coverage a few brief statements were made about the Army's commitment to continually protect cultural sites within the valley while attending to military readiness issues. But articles about the resistance to training at Mākua largely faded from newspaper coverage.

The O4S provided each group with the potential to demonstrate the veracity and strength of their claims. For the Army, the time period following the O4S offered an opportunity to prove their assertion that they could simultaneously support troop readiness and demonstrate the responsible stewardship of cultural and environmental resources. For Mālama, the compromise provided a chance to participate in the evaluation of the military's adherence to "best" practices in training and maintaining the land. It was also a chance to raise consciousness

and rally potential supporters to their cause via permission for public access onto the land, and regular visits to cultural sites.

In accordance with the settlement, each party began to taste some of the fruits of their compromise. At the beginning of the year a hundred community members celebrated the Makahiki at Mākua. The Makahiki season traditionally opens a season of peace, during which wars were forbidden. By mid-February the Army had conducted 10 CALFEX's – in the same location- in preparation for war.

The Army began to follow through with their commitments to complete the EIS by scheduling a series of community meetings. The first scoping meeting was held in April, and unlike the public hearings held for the EA process, community voices shaped and "determine(d) the scope and focus of the study" to address the impact of training on the resources, the people, and the land (Cole 2002b). At the first of these meetings 76 community members were in attendance, and 28 sought to provide testimony (Cole 2002c). In August, to complement the measure of public accountability within the EIS process, independent experts hired by Mālama via the agreement - reviewed the Army's proposed studies for air, soil, surface water and ground water tests. They found them to be inadequate in addressing community questions about long-term environmental health (Cole 2002g). Through these advocacy steps – Mālama paved a pathway towards greater transparency and promoted independent monitoring of potential conflicts of interest (i.e. accountability, decision-making regarding the use of the land).

During the intermediary period post-O4S, a new political platform emerged regarding the expansion of military training in Hawaiʻi via the Stryker Brigade. This emerging issue eventually eclipsed the visibility of Mākua within the general public via media coverage, and diverted the attention of social movement participants who had been active at Mākua. It was evident that military proponents of Stryker and critics of the Stryker alike, began to form their

actions and court case framing strategies based on the patterns of struggle at Mākua. The Army began to move forward with intentions to place the Stryker brigade at Pohakuloa by announcing their intention to complete an EIS (Cole 2002d). The Army's firm commitment to investing in EIS work is a marked departure from the previous strategies that were used at Mākua to address federal regulations by completing a less exhaustive EA. It demonstrates a shift in tactical decision-making and represents a movement to avoid the extensive litigious hindrances and delays that were common at Mākua and abroad. Eventually the opponents of Stryker, which included a cross section of participants from HuiMOM, Earthjustice, and ASFC, developed a court case that echoed the objections that had been voiced in the Mākua case. They criticized the appearances of bias, the lack of exploration of alternative sites for training, and disingenuous results in the Stryker EIS process.

The 25th ID hosted public scoping meetings for the Mākua EIS, while concurrently holding meetings for the $693 million Stryker Brigade transformation (Cole 2002d). The Stryker EIS meetings were filled with public discontent that mirrored meetings that had been held regarding Mākua. Many core advocates who had participated in Mākua processes (including members of HuiMOM, AFSC, and Earthjustice) were present at Stryker processes, and were dismayed by the limited amount of information shared, and the lack of exploring alternatives to the IBCT placement in Hawaiʻi. The issues that arose in Stryker meetings were identical to those that had been advanced at Mākua and at Kahoʻolawe.

The sensationalism of rising national security concerns – exemplified by national military expansion, the potential economic boost via the Stryker placement in Hawaiʻi, and the nation's preparation for war – coupled with the muting impact of the October compromise (O4S) – had the cumulative effect of sidelining the work at Mākua. In the next few years, the Army's resources and attention were redirected towards supporting the Stryker Transformation. This

culminated in the delayed completion of activities outlined by the O4S including the delivery of the final EIS, and the time investment in completing adequate marine resources studies, cultural surveys, and surface/subsurface archaeological surveys. The involvement of core members of HuiMOM, American Friends Service Committee & Earthjustice in the Stryker EIS process also diminished their capacity to engage consistently in work at Mākua (Aila 2008; Dodge 2008; Kajihiro 2008).

The advocates who viewed the military use of lands at Mākua and Pohakuloa as inappropriate, shared similar tactics designed to confront the Army's intentions. There was a considerable degree of overlap between advocates involved in the processes at Mākua and Pohakuloa. Some of the common framing tactics used in both cases included the illumination of ongoing unsatisfactory fulfillment of environmental regulations and the broadcasting of concerns about the inadequate exploration of alternatives to the Army's proposed actions. Both cases also shared the prognostic strategy of employing legal pathways to carefully scrutinize the environmental, cultural, and community impacts of training on each respective parcel of land. Despite the transmission of knowledge between advocates at both sides, and the use of strategies that had been somewhat fruitful at Mākua, the same acts within the Stryker case were overpowered. A heightened atmosphere of national security concerns, and the committed efforts of Army representatives to adhere strictly to federal regulations (which included the completion of an EIS) diffused the strength of environmental/cultural arguments against the use of Pohakuloa. The Stryker placement also represented the potential for long-term federal economic investment into Hawai'i, which weighed heavily in political pressure applied to ensure the smooth transition of the IBCT placement in Hawai'i.

In the time period that followed the O4S, the erosion of traction and momentum that had been built by movement participants at Mākua became evident. The O4S represented a

formal acquiescence by Mālama that permitted troops to temporarily train, and had the unintended effect of decreasing pressure to actively engage the Army to cease their use of the land. HuiMOM, Earthjustice, and the AFSC became heavily involved in pouring their energies towards analyzing and resisting the Stryker transformation in Hawaiʻi. Meanwhile, Mālamaʻs efforts became centered around monitoring the training at Mākua, and organizing public access in an effort to raise awareness and consciousness about the significance of the place. The confidential nature of building court strategies influenced Mālamaʻs willingness and capacity to increase membership, and limited the participation of others in their efforts. These incremental shifts in direction had a tremendous impact on the overall trajectory of activities at Mākua.

CHAPTER 7: 2002-2006 PLATEAU OF NATIONAL SECURITY, THE RECEDING STRENGTH OF MORAL FRAMEWORK, & THE POWER OF THE COURTS

As National Security endeavors gained momentum in the years following 9-11, the visibility of the issues at Mākua receded and media coverage focused on war. News stories about Mākua were overwhelmingly replaced by the political platforms of preparations for war, the relaxation of stewardship commitments by the Department of Defense (DOD), and the economic implications of military expansion via the Stryker transformation in Hawaiʻi. Mākua developments were mentioned as a periphery issue impacted by environmental exemptions for training access, and as a factor that influenced the construction of the court case that voiced objections to Stryker expansion. Issues at Mākua momentarily became a media spotlight due to an inadvertent fire in 2003, but what emerged clearly through this exposure was the constraining influence of the O4S on Mālama's central moral framework against training. Mālama members' reasoning for permitting training began to mimic the Army's framework. And as the strength of the Army's moral arguments supporting the primacy of live training requests at Mākua permeated the media, the Army also requested a special exemption to gain access to training at Mākua. This move was connected to the growing pattern of DOD trends towards asserting the primacy of training over UXO clean up commitments and adhering to regulations for environmental stewardship. The request for exemption to train at Mākua represented a significant departure from the Army's former framing strategy that had previously emphasized their ability to uphold environmental and cultural stewardship commitments while maintaining troop readiness. In the end, the courts upheld the O4S, and this decision had long-term implications for the use of the land at Mākua.

For the duration of the struggle at Mākua, there were two underpinnings of the military's framework in the debate. These sound bytes were frequently repeated by various claimsmakers

with very little variation. The first was that training at Mākua was a critical necessity and that no suitably acceptable alternatives were available to those training grounds. The second was that Army was able to balance cultural/environmental stewardship while maintaining troop readiness standards. This position is characterized by this quote, the Army, "has two equally important obligations: ensuring solders are ready for battle by conducting realistic training, and conducting that training in a way that protects the environment" (Cole 2002a). To further their credibility in environmental stewardship, "Schofield Barracks officials (affirmed their) strong commitment to protect the environment", "and (mentioned) that the U.S. Army Pacific has committed $12 million for environmental programs in 2003" (Cole 2002e). Commitment to environmental care and maintaining troop readiness at Mākua were the common responses for all military representatives making claims about stewardship of the land.

In 2002, the Army's core framework at Mākua - regarding their parallel commitment to both stewardship and military readiness began to change. It was undermined by remarks made by the Secretary of Defense, and other DOD staff members, who expressed discontent with the instability of access to training grounds due to ever-increasing challenges to their practices under the scrutiny of environmental law. Army spokespeople began to assert the claim that national security measures, especially access to training grounds, should take precedence over the fulfillment of environmental regulations. The, "armed services, complain they are increasingly hemmed in by environmental laws that restrict training and erode readiness, (and) maintain (that) the law changes are designed to save lives as the United States continues to wage war on terrorism" (Cole 2002e). The argument alluded to the idea that protecting lives abroad should be advanced as higher priorities than environmental justice or monitoring effects of training on communities in which training occurs.

In May 2002, a military appropriations bill that embodied this shift in framework was introduced into Congress (Cole 2002e). It reinforced the need to access training grounds over the need to adhere to regulatory standards for environmental protection. This bill had the potential to exempt the Army from being held accountable to certain federal regulations regarding environmental care, which included the Endangered Species Act (ESA). In the history of Mākua & Pohakuloa, court plaintiffs had championed the enforcement of the ESA as an essential component of their opposition to training. This piece of federal legislation represented the conflicting realities of the Army's commitment to the environment and to ensuring adequate troop readiness. On one hand, between 2001-2003 "the Army spent more than $4.5 million on the protection of endangered species", on the other hand, they actively worked to circumvent their obligations to safeguard the environment by pursuing measures that attempted to erode their obligations to federal environmental regulations (Anderson 2003). In the case of Mākua, the ESA (which was being targeted by this legislation) had been one of the core elements of the legal strategy. Earthjustice attorney David Henkin responded to this legislation by saying, "We're very concerned the military is taking advantage of the current situation (in the world) to rid itself of laws it feels are inconvenient," (Cole 2002e). Henkin also commented that this defense bill would, "take away the need for the military to consult with the U.S. Fish & Wildlife Service on its plans for land designated by the agency as critical habitat" (Cole 2002e). As a result of this legislation, stark contrasts began to appear between the Army's former media framing strategy ensuring both environmental/cultural care and military readiness, and their present actions that attempted to bypass their obligations to environmental care - which were inconsistent with those messages.

In Gamson's exploration of mass media and its relationship to actors attempting to influence power structures, he concludes that, "the ultimate goals of a media framing strategy are

to increase or maintain media standing and increase the prominence of one's preferred frames" (2007:259). Though the Army's media framing strategy, which centered on their excellence in balancing the dual roles of caring for the environment while simultaneously training troops, had gained prominence in the media - this success backfired when their actions did not align to their framework. As a result of the political shifts post-9-11, the Army's credibility came under question. One of the characteristics by which frames can vary is their degree of credibility, and one of the factors that determine this degree is "framing consistency" (Benford and Snow 2000:620). "A frame's consistency refers to the congruency between a social movement organization's articulated beliefs, claims, and actions. Thus, inconsistency can manifest itself in two ways: in terms of apparent contractions among framings and tactical actions" (Benford and Snow 2000:620). The inherent contradictions between their framing and their actions began to chip away at their frame consistency (Benford and Snow 2000:620). The Pentagon's push towards wholesale environmental exceptions – was met with strong opposition. Many groups, including Earthjustice, became embroiled in active resistance to this approach that would absolve the Army from adhering to environmental responsibilities, and protective regulations that included the ESA, Migratory Bird Treaty Act, Clean Air Act, Clean Water Act, Marine Mammal Protection Act, and the Noise Control Act. Other voices chimed in to critique the legislation saying, "the Bush administration has sought to use the sense of emergency in the war on terror and on Iraq as an excuse to bypass the environmental laws that encourage stewardship" (The Honolulu Advertiser 2003c). In the end, some of the language in the bill was modified to include only a portion of exemptions to the Environmental Species Act. Senator Akaka, Senator Inouye, and Representative Abercrombie voted in favor of the bill, which also

included funding slated for the pending Stryker transformation in Hawaiʻi. Representative Ed Case voted against the measure[3].

By mid-year, amidst an atmosphere of cautious skepticism regarding the degree of the military's commitment to environmental responsibilities, the Army attempted to restore the appearance of frame consistency, by announcing its plan to fulfill their commitments to ordnance cleanup as outlined in the O4S (Gordon 2003a). An article appeared in the Advertiser that carefully outlined the procedures for the controlled burn, the safety measures in place, and their reasoning for selecting a season of drought conditions as ideal for the burn. Unfortunately, on July 22nd, the 900 acre "controlled" burn grew wildly out of control due to shifting winds and engulfed 2,500 acres of the 4,190 acre valley (Gordon 2003c). Army public affairs officials remarked in an apologetic tone, "We feel bad about the situation. But we will learn from it and become better stewards of our environment. We promise to do better, and we really need that training area" (Blakeman 2003a). They further included the insecurity of global terrorism as justification to maintain their claim to the land, explaining that:

> the fire (was) a substantial setback in the perception of the Army's ability to protect the valley. But (they) stressed the vital need for a location where soldiers can train, particularly because of the events of 9/11, wars in Afghanistan and Iraq, building tensions in the Middle East and uncertainty in North Korea and Liberia. (Blakeman 2003b)

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[3] On September 2002, after Hawaiʻi's congressional representative Patsy Mink passed away a special election was held to fill her seat. The Honolulu Advertiser asked each candidate to respond to five questions, two of those were concerned with understanding the candidateʻs perspective on issues of war, the military, and national security. One of those questions was, "Do you support military training at Mākua and proposal to expand Pohakuloa operations?" (The Honolulu Advertiser 2003a). Twenty-two candidates responded with an unequivocal "Yes" to training at Mākua, twelve responded with a "No", and ten were either undecided or offered qualified alternative descriptions of possibilities at each location. The condition of Hawaiʻi's economic dependency on militarism, the continuing controversy at Mākua, and the pending expansion at Pohakuloa became the core platform of information presented to voters to influence their deliberations. The candidate's disclosure of their views regarding these platforms both were offered to the voters to inform their decision making process. Representative Ed Case won the election for Mink's seat.

Shortly after the blaze, about 45 residents took part in a public access tour to view the damage, to mourn over the destruction, and to provide offerings for restoration and healing through cultural ceremony and protocol (Hoover 2003).

Earthjustice attorney, David Henkin, tested the waters of the Army's vulnerable claim of commitment towards environmental care by publicly reminding them that a reassessment of the effect of training was necessary under the ESA. This "formal review (would) include a 90-day consultation period, and 45 additional days for the report with steps to best protect species – during which time the Army could be precluded from live-fire training" (Cole 2003b). After a month of debating the necessity of undergoing formal USFWS consultations, under the pressure of another potential lawsuit with Earthjustice, the Army consented to follow through with the process (Cole 2003c). This decision occurred during preparations for deployment to Afghanistan in February and included the mandatory halting of live fire training for at least several months while they complied with ESA regulations. After an initial assessment by the USFWS, they found that the damage from the fire was extensive. The,

> 'fire destroyed at least 71 individual endangered plants' (Cole 2003c), and 'burned approximately 150 acres of unoccupied O'ahu Elepaio critical habitat (areas essential to species recovery) on Army lands and approximately 6 acres of O'ahu Plant Critical Habitat on adjoining state lands' (Schaefers 2003). 'The Army said less than 10 percent of 'akoko plants, one percent of the nehe, and less than one percent of the kului'i in Mākua Valley were burned.' (Cole 2003c)

As a result of the "controlled burn" gone wrong, and due to the necessity of adhering to USFWS consultations after the incident, live-fire training as permitted under the O4S compromise ceased from July 2003 til November of the same year.

While acknowledging the gravity of the situation, the military constructed measures to restore public confidence in their claims and commitment to environmental care. Col. David Anderson, commander of the U.S. Army Garrison Hawai'i, attempted to build momentum

towards reputation recovery and damage control within the media, by mentioning the silver lining that the fire allowed for more unexploded ordnance analysis and uncovered more cultural resources. "More than 25 new archaeological sites have been uncovered since the burn, said Laurie Lucking, a cultural resources manager for the U.S. Army Garrison Hawai'i" (Schaefers 2003). These statements aimed to minimize the harsh glare of exposure that this fire would bring to their stewardship of the land.

The inadvertent fire and the resulting damage was the first pressure point leveraged by proponents of change at Mākua since the O4S. The resulting damage was upheld as confirmation of their viewpoint that training at Mākua is inappropriate. In response to this fire, HuiMOM & Mālama Mākua members, as well as several editorials recommended that the military should admit that environmental harm would be inevitable if they continued to occupy Mākua. They promoted the perspective that the military should relinquish their claim to the valley, clean up the valley, and return it to the community (Blakeman 2003b; Cataluna 2003; Hoover 2003;; Kauka 2003; Kim 2003; Purdy 2003; Schaefers 2003; The Honolulu Advertiser 2003e). The re-emergence of tones of suspicion, mistrust, and disappointment with the management of the lands by the military as espoused by members of ASFC, HuiMOM, and Mālama Mākua– began to spread through the media. Groups took full opportunity to express their dismay, concern, and outrage at the lack of competence and careful stewardship displayed by the July fire. This formulation of opposition towards training emphasized and echoed the familiar framework of moral responsibility around the issues of the justice for the health of the Wai'anae community, cultural desecration, and the environment. Their framework highlighted the inconsistency of the Army's claims to be able to fulfill both their commitment to train AND their commitment to responsibly care for community health (via addressing health hazards, and maintenance of environmental and cultural resources).

Out of the ashes, two renewed framing strategies arose. Mālama & Earthjustice appealed to the moral compass of the larger community to acknowledge the inherent contradictions of the Army's continued presence at Mākua. The Army vigorously dove into the argument of moral responsibility – by reframing the issue around the lives of soldiers, and international instability issues via looming threats of violence abroad. "'We can't allow our sons and daughters to go into harm's way unprepared,' Anderson said, 'Live-fire training is important to their preparation before they go to Afghanistan to fight the global war on terrorism.'" (Schaeffers 2003). At the same time editorials defending the Army's perspective also appeared in the newsprint (Holcombe 2003a; Holcombe 2003b; McDermott 2003; Prescott 2003). Readjusting tides of moral sympathy/responsibility in the face of changing political opportunities was an important aspect of the struggle over Mākua.

In the post 9-11 reality of war in Afghanistan and pending war in Iran, attempts to cease training at Mākua via the moralization of the conflict around cultural desecration, environmental degradation, and community health – were met with indifference, opposition, and the force of law via the O4S. The essential difficulty that Mālama had with advancing the moral view that the military should leave Mākua in response to community concerns – lay in the fact that the October compromise (O4S) had already given away their primary objective. The fact remained that despite their vigorous argument that training at Mākua was inappropriate they had legally entered into a compromise that temporarily weakened their ability to enforce their position, and supported training in the face of war.

From 2001-2005 the military approached Mālama members five times to make modifications to the O4S that would accommodate training needs (Cole 2003e). In order for a modification to be adopted, each change to the court document needed to be approved by both parties and granted by U.S. District Judge Susan Oki Mollway (Henkin 2008). All five of the

requests were eventually granted, but only three of these modifications were recorded in newspapers (Blakeman 2004c; Cole 2003e; Cole 2004a). Within the media, continual changes to the settlement appear to have had the effect of weakening the strength Mālama's moral stance that training at Mākua is inappropriate. At times, the process of approving modifications appeared to relegate Mālama's role to the menial task of splitting hairs, and exercising minimal control over setting arbitrary parameters of permissible training procedures. For example, in December 2003, convoy training, which was outside of the terms of the original agreement, was initially opposed by Mālama then permitted after the Army capitulated to their demands to cease the use of mortars. In April 2004, the Marines proposed using an extensive amount of mortar fire that was initially opposed by Mālama – but then permitted after the Army agreed to use measures of monitoring the use of mortars. The sheer amount of time that these negotiations, the monitoring of the training (which had been granted by the O4S) required, and the consistency needed for the governing body (Mālama's board) to make these legal decisions – limited their capacity to expand the membership of the group.

In the media coverage of the settlement modifications, Mālama member's rationale for decision making began to adopt the language of the Army's framing regarding training. Following the first modification, Sparky Rodrigues, a member of Mālama Mākua said, "While we don't believe that any military training at Mākua is appropriate, we understand the Army's desire to make sure its soldiers are prepared to defend themselves" (Cole 2003e). This simultaneous display of opposition towards the local expression of a national security value (training at Mākua), coupled with the empathy towards the value of national security claims (via concern for soldier's lives/readiness) highlights the contradictory position that Mālama members navigated as a result of the O4S and subsequent adjustments to the agreement. The Army did not have the task of balancing opposing messages within their statements about concessions to

training. They simply maintained the moral argument of saving lives in war by expressing a commitment to do, "whatever it takes for our nation's sons and daughters – to train for combat in Mākua" (Blakeman 2004c). In the year following Sparky's comments, while in the process of negotiating another concession, Fred Dodge explained the motivation behind the conciliatory measure to allow training by saying, "We'd like to see no training in the valley, but in these times we won't stand in the way of training which appears to be less of an adverse impact on the valley and appears to be more relevant for what's going on in Iraq and Afghanistan"'(Cole 2004a). His statement is a mirror image of the Army's framing that training (in the case of relevancy to war) takes precedence over Mālama's stance that training is inappropriate. These quotes reveal the impact that O4S modifications had on straining the moral strength of Mālama's position, as board members began to adopt the language and framework of the Army's perspective on training.

By 2003, stories covering the Stryker formation overshadowed the coverage of O4S modifications for Mākua, and as mentioned previously the strategies used within the SBT process were influenced by genealogy of the court case at Mākua. Earthjustice lawyer, Henkin's comments within the EIS process for the SBT paralleled earlier arguments during the EA, SEA, and Preliminary EIS processes at Mākua. In both the Mākua & SBT case, Earthjustice, AFSC, and HuiMOM members deplored the lack of rigor in examining alternatives, and government earmarked funding to support training ground use before the Army had completed the EIS process (Blakeman 2004a; Boylan 2004). In both cases, Earthjustice worked to expose the concerns that Army efforts to fulfill the EIS appeared to be a mere formality that was being used as a disingenuous tool to weigh risks and responsibilities, and make sound decisions.

While the issues at Mākua began to receive a waning measure of recognition, a large chunk of media exposure was diverted towards the Stryker expansion at Pohakuloa due to the

highly politicized prospects of a boost of federal investment into Hawaiʻi's economy. On June 2004, an announcement was made that the final EIS for Mākua would be released in September, and that the final EIS for the Stryker Brigade was completed and available for review. Despite the fact that the issues at Mākua had been fomenting for years, the Stryker EIS was released first. The cost of producing the Stryker EIS was $10 million, and the final document was 2,000 pages long. Comparatively, the estimated cost of the Mākua EIS was $2-3 million, and the Army's earlier objections to investing in the process were made on the grounds that the costs were exorbitant and prohibitive. After a protracted history of energy, time, and money spent arguing the merits or necessity of the Mākua EIS, the Army elected to bypass this potential battle over the necessity of a Stryker EIS and directly invested in the process at cost almost 3-5x greater than the Mākua EIS. This action was undertaken without complaint.

Despite the lessons applied from the Mākua struggle, efforts at resisting the SBT that were shaped on the framework of that success – were met with a completely different outcome. While the format for formal court objections to training had garnered mileage in the Mākua process, they received a different reception in the Stryker transformation case. Efforts to resist Stryker were shaped on the contours of success in the case of Mākua. These included Earthjustice's court appeals that documented the detrimental effects of training on cultural and biological resources, and an injunction request to temporarily halt the SBT process so that community could gather evidence outlining the potential for negative cultural and environmental impacts. "Chief U.S. District Judge David Ezra refused to issue an injunction" and "ruled against them twice" (Boylan 2005). On November 2004, "he said any delay would hamper the global war on terrorism", on April, 2005 "he dismissed the lawsuit, saying the groups raised their objections too late" (Boylan 2005). Immediately following the court's decision the media reported on two hundred protesters, described as "Hawaiian activists", who marched through

Wahiawa in collective response portraying community solidarity in opposing the outcome (Boylan 2005). Earthjustice and other grassroots organizations later successfully won an appeal to Judge Ezra's decision in the Fall of 2006, and managed to mandate the Army to review reasonable alternatives to Pohakuloa. This temporarily arrested the Stryker transformation until the additional report was produced in January 2008 (Kakesako 2006f). The potential for strengthening Hawaiʻi's economic indicators radically shifted the outcome of identical court processes at Pohakuloa versus those at Mākua. The diverse results of similar prognostic strategies illustrate the fragile nature of gains within a political climate shaped by war, the vulnerability of movement activity within a court system subject to the professional inclinations of federal judges assigned to the case, and the problematic nature of addressing high profile national security matters in a state with an economic dependency on military investment.

As the prospective for expansion at Pohakuloa gained momentum, the Army continued to enjoy fairly uninhibited access to training at Mākua under the O4S. One element of the O4S had included the commitment to complete an EIS and additional studies that would provide the community with comprehensive information about the impact of training on their health. These studies included an offsite migration of contaminants report, a marine resources study, a traditional cultural survey, and a surface/subsurface archaeological survey. According to the O4S, all studies were to be completed and published within three years of the agreement, or by October 2004. Both parties agreed that in the event that all of these reports were not finished, all live fire training at Mākua would be prohibited until they were produced. The Army's projected September 2004 release date for the Mākua EIS lapsed, and instead of producing the expected reports, the Army announced their efforts to sponsor community tours and develop a new visitor center to publicly display their environmental and cultural stewardship work at

Mākua (Viotti 2004). Shortly thereafter, the October 2004 deadline passed, and in accordance with the O4S all live-fire training exercises (CALFEX's) at Mākua ceased.

In an effort to regain access to training at Mākua, the Army released their final EIS in July 2005, and disclosed their intentions to increase the number of trainings and the types of firepower used within exercises. Earthjustice lawyer – David Henkin remarked that, "the only options the Army is considering are training at Mākua, more training at Mākua, and even more training at Mākua" (Blakeman 2005b). He also drew attention to the Army's incomplete fulfillment of their duties by reviewing the list of missing reports required under the O4S (i.e. the offsite migration of contaminants report, the marine resources study, a traditional cultural survey, and a surface/subsurface archaeological survey) (Blakeman 2005b). The U.S. Army Garrison attempted to meaningfully engage and address community concerns by extending the commentary period for the EIS another 15 days (The Honolulu Advertiser 2005b).

Shortly after closing the extended commentary period for the Mākua EIS, the Army's legal team requested an adjustment to the O4S that would allow them to recommence live fire training without completing the missing reports. They cited that they were unable to anticipate the duration, intensity, and training requirements of war when they had entered into the agreement, and that the current situation warranted a modification. Mālama denied their request, and the Army then placed a petition with Judge Mollway to grant their request (Cole 2005). To support their request - the Army's litigation team expressed concerns that, "Schofield Barracks troops being deployed to Iraq and casualties in the 25th ID will be higher without the training (in Mākua)" (Kobayashi 2006a). Prior to her ruling, Mollway issued a preliminary statement that,

> even though the country was not at war at the time, war had been anticipated. 'Clearly, the Army was contemplating it would be in combat.' She also pointed out that the Army's environmental impact statement is long overdue, now nearly

> 4.5 years after the signing of the agreement. 'Deference to the Army shouldn't be confused with letting the Army violate environmental laws'. (Kobayashi 2006a)

In the shifting political climate of their fresh victory at Pohakuloa, the Army's team had hoped that the federal court would support the primacy of national security over environmental stewardship.

The continuation of a familiar framing battle resurfaced just before Judge Mollway's final ruling was issued (Gordon 2006). On one hand, the military defined training access to Mākua as an issue of life or death for soldiers – who protected America's people in anti-terroristic wars in Afghanistan and Iraq. On the other hand, Mālama defined their prevention of training and alternative use of Mākua as issues of the Wai'anae community's health, the prevention of the loss of environmental biodiversity, and the protection of historically significant cultural resources. The Army's narrative highlighted the injustice of sending soldiers to fight without proper training. Mālama's story highlighted the injustice of refusing to provide meaningful information about the impact of training on the health of communities, and on the environment.

When the court decision was released, Judge Mollway upheld the O4S and did not permit the Army to begin training until they completed the EIS and other required reports.

> Judge Mollway characterized the Army's warnings that casualties will increase without the training as ' vehement pronouncements and speculations'. She said the Army has alternative training sites and Army officials have not shown that the training will be adequate only if it can be done with live fire in (Mākua). The judge said that the Army must abide by federal laws requiring (the completion of an) environmental study on the impact of the exercises on endangered species and Hawaiian cultural sites before (resuming live fire) training. (Kobayashi 2006b)

In response to her decision, the Army issued a statement that they had "hoped the judge would exempt them from the requirement because of what they contend(ed) was a pressing need to adequately train troops for war" (Kobayashi 2006b). Instead of resuming live fire training, the

Army made the decision to train with blanks at Mākua (Cole 2006a). Additional military statements reinforced that they were being responsive to community concerns, as demonstrated by the imminent release of the final EIS (incorporating responses to community comments)– which would be forthcoming in March or April (Kobayashi 2006b). A week after this statement, projections for the completed EIS were extended to August (Cole 2006a). A month later, projections for the EIS were unknown.

The distinct media frames championed by Mālama & the Army receded in strength in the period between 2002-2006. The Army's media framing strategy had gained prominence and featured their commitments to both environmental care and ensuring troop readiness. But their frame was undermined by the DOD's efforts to seek exemptions to environmental regulations, and by their petition to return to training without completing the Mākua EIS or O4S reports. To re-align their framework, the Army transformed their position towards the elevation of the primacy of troop readiness over their obligations to address environmental concerns, and then shifted the frame once again to focus solely on the moral responsibility of soldier's lives and the threat of terrorism abroad. On the other hand, Mālama's media framing strategy had been that training at Mākua was inappropriate because of the unavoidable costs of irreparable damage to rich cultural and biological resources, and undefined impacts on community health. Yet, the O4S had permitted training, and in the media coverage over training modifications to the O4S - Mālama member's expressions of empathy towards training needs began to reflect the Army's framework. The lack of alignment between each party's media framework and their correlating actions – created an ambivalent stalemate in framing contests.

Despite the inconsistent appearance of both the Army and Mālama's moral framework, the power of the courts elevated the adherence to legal commitments (O4S) made by both parties – as the primary determining factor for navigating the future outcomes of Mākua. The

court case upheld the provisions of the O4S agreement, and in the wake of the waning influence of National Security rhetoric, the court case maintained the long-term cessation of live fire training at Mākua.

CHAPTER 8: 2006-2013 AN UNFINISHED EPILOGUE

In a personal interview with William Aila, he advanced the analysis that changes at Mākua would ultimately rest upon the federal government, either the legislative, executive, or judicial branches (Aila 2008). His insight summarizes a common theme that persisted in the events that occurred between 2006-2013: the pursuit of shifting political power in the federal arena (judicial and legislative) as an avenue to enact meaningful change in the future of Mākua.

Due to the longevity of the court case, that prompted the sustained visibility of the issue within the media, congressional delegate Neil Abercrombie began to publicly demonstrate his support towards the return of Mākua. Although Abercrombie's advocacy appears to be linked to the long-term activism of citizens around the environmental and community health issues raised by the court case, his actions may have been influenced by other variables. He advocated for provisions that required the Army to formally prepare for life after the closure of the lease at Mākua in 2029. This provision was inserted into the 2007 Defense Authorization Bill, a major military appropriations legislative piece that was passed in September 2006. He punctuated his position by saying,

> Eventually the land must be returned, so the Army needs to look beyond its current use to the eventual return of this historic and environmentally sensitive treasure. Mākua Valley is by everyone's definition an inadequate and essentially dysfunctional training area for the modern Army. (The Honolulu Advertiser 2006h)

The Army was mandated to report to Congress on their plans for returning Mākua, and the results of preliminary research regarding viable alternatives to that training location. But when the final report was submitted it disregarded Abercrombie's provision, and instead reinforced the argument that there was no alternative for live fire training beyond Mākua. The report dismissively mentioned one possible alternative – which would be making adjustments to the

training area at Pohakuloa. However this was estimated to cost $600 million, and was declared an unreasonable option (Cole 2007). Their report stirred a torrent of sharp criticism:

> Abercombie, a subcommittee chairman on the House Armed Services Committee said that the Army has spent millions to unsuccessfully defend in court the use of a range that can be replaced, and is ill suited to Stryker training. (These) attempts to hold onto Mākua, a place of importance to Hawaiians, have become a 'symbol of arrogance, a symbol of indifference to Hawaiians, indifference to the land. The Army years ago made the argument that Mākua was an obsolete facility and Congress allocated money to purchase (alternative) training lands', because of the failure of the Army to produce the EIS document in accordance with the 2001 October agreement, 'no live fire training (had) been conducted for nearly three years. (Cole 2007)

His censure of the Army's perspective, and adoption of Mālama's moral framework of the significance of the place – represented a substantial shift in federal political power supporting efforts to end training at Mākua. To add strength to Abercrombie's perspective, Henkin chimed in to express the inconsistencies of the Army's argument that Mākua is irreplaceable. Henkin emphasized that "they've deployed to war many times" without the use of Mākua for live fire – thus the crux of their argument has been invalidated by the course of time, exposing the reality that Mākua is not essential" (Cole 2007). These congressional activities echoed Aila's framework that movement activities must compel political change at the federal level – in order to longitudinally implement change at Mākua.

Building off of the momentum of federal legislative support, Mālama shaped an appeal to stimulate federal judicial support. It was based on contesting the Army's compliance with the O4S provisions that granted cultural access visits to Mākua, which was a rare and highly unorthodox activity permitted on an active military training range. Since access had been granted, struggles over ensuring cultural access visits had been an ongoing source of tension between Mālama and the Army. As congressional support grew towards the cessation of training – complications over cultural access became visible in the media. These conflicts

climaxed in 2007, when the Army altered cultural accesses to Mākua twice, once in June and in November[4]. Mālama & Earthjustice fashioned an indictment of the Army's negligence and failure to comply with the O4S via reasonable cultural access allowances, and another legal case emerged in early 2008.

Just prior to the emergence of the cultural access court case, the Pentagon announced that the Stryker & Mākua EIS studies were both scheduled to be released. The Stryker EIS was released first and included an addendum that had been court mandated two years prior. Despite the fact that the Mākua EIS process had been initiated prior to the Stryker EIS, it was not

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[4] The first incident occurred just over a month after the oppositional encounter with Abercrombie, and was sparked when the Army delivered a message to Mālama & HuiMOM members to explain that they were revoking their access to four cultural sites based on, "unnamed lineal descendant objections to visits" and "past studies by the National Park Service (which) found that 'unlimited and/or unrestricted access physically damages cultural sites'" (Hoover 2007a). In the second incident, the Army discovered unexploded ordnance, established a 1,800 meter exclusion zone, and cancelled a significant overnight cultural access in the interest of community safety (Hoover 2007b; Leidemann 2007). Both events set off rounds of heated commentary published within newsprint. In June, a letter was published regarding, "the Army's denial of cultural visits. They stated that "non-lineal descendants disapproved of the visits" because they felt that visits would 'desecrate sacred land'. Is this the same Army that has been using the valley for target practice? Is that all it can pull out its hat of excuses? Last time I checked, it was trying to roll in the Strykers. I cannot say any more, due to my dumbfoundedness" (Evans 2007).

In shock, Fred Dodge, a member of Mālama Mākua, said that "this is just the latest attempt by the Army to deny, limit and restrict access" (Hoover 2007a). Earthjustice issued a formal letter in protest of these restrictions. But access to those cultural sites was not restored. In November the exclusion zone incident disrupted Makahiki ceremonies that happened once per year. Since the inception of the O4S, Mālama Mākua & HuiMOM had organized Makahiki ceremonies in order to revive the cultural practice in Mākua. During this celebration, practitioners were allowed overnight access to sacred sites within the valleys. Preparations for the Makahiki rites begin months in advance of the varying date that occurs between October and November each year, and the ceremony involved anywhere between 20-100 people. State Rep. Maile Shimabukuro said, "that the Army created the 'appearance of an emergency' by establishing a blast zone that excludes the makahiki celebrants but doesn't warn or protect those who may be swimming, fishing, or diving inside the same zone" that covered, "a sizeable stretch of Farrington Highway, the whole of Mākua Beach park, and on into the ocean" (Hoover 2007b). The November incident was resolved when the UXO pieces were detonated in early December, and cultural accesses were reinstated.

surprising that the Stryker document was released first. The outcome of the report was tied to a considerable economic influx of resources to support the SBT placement in Hawaiʻi. The addendum extensively reviewed reasonable alternatives to SBT placement, but settled on Pohakuloa as the preferred strategic location for Stryker expansion. This report represented the defeat of community measures and the four-year legal battle to protect cultural and environmental resources at Pohakuloa that had been shaped on the successes of the ongoing Mākua case. The results of the Pohakuloa court case did not bode well for the pending release of the Mākua EIS in regards to the future of Mākua.

During this time, the Army also attempted to carve out congressional favor towards the renewal of live-fire training at Mākua. It began with the promotion of Major General Benjamin R. "Randy" Mixon from commander of the 25th ID (the division responsible for maintaining the training grounds at Mākua), to the head of the U.S. Army Pacific (Cole 2008a). He expressed his desire to use the influence of his new position to resolve, "concerns about the training and readiness of soldiers of Hawaiʻi", and the resources wasted at the taxpayer's expense to send troops elsewhere to train due to protracted court sessions (at Mākua & Pohakuloa) (Cole 2008a). He presented his analysis that,

> 'the problem…is that as the Army tries to go down and do the things that it's required to do by law, the environmentalists and other activists are continually filing some kind of injunction, using some kind of leverage to stop the training', so he vowed to 'work with Hawai'i's congressional delegation to see how we can overcome these (training) issues…(perhaps through) special assistance through legislation.' (Cole 2008a)

His perspective reflects the intention of directly engaging in a battle for gaining influence over the legislative branch of the Federal government. In Kriesi's research, he explained, "that the state can invite action by facilitating access, but it can also provoke action by producing unwanted policies and political threats, thereby raising the costs of inaction" (2007). While

Abercrombie's actions in 2007 facilitated access towards the cessation of training at Mākua via Congressional legislation, the lack of cooperation towards his request by the Army also provoked Abercrombie's political threats – which Mixon responded to by seeking a counter-balancing source of influence in Congress, most likely Senator Inouye.

In the wake of these waves of military moral victories (i.e. confirmed Stryker expansion and reinvigorated Army leadership priorities to maintain hold of Mākua), Mālama began their cultural access court case. In February 2008, Earthjustice sued the Army for violating the O4S agreement by unreasonably barring and restricting cultural access.

> Between 2001 and 2004, numerous cultural practitioners were allowed onto more than a dozen cultural sites without a problem. Then, in February 2005, the Army abruptly halted access to all but one site. Other sites were either off-limits completely or severely restricted. Not only are they required to let us into those sites but under the agreement they were supposed to promptly take action to open up new areas that hadn't been accessed before. None of that has been done. (Cole 2008b)

They explained that the Army maintained arbitrary restrictions to accessing Mākua, which circumvented compliance with the O4S agreement. Federal court judge Mollway affirmed their assertions and agreed that Army had not complied with the O4S terms. She "chided the Army for the untimely manner in which it complied with" the court provisions, and ordered the Army to work with practitioners to identify high priority areas, submit, "quarterly reports until UXO (was) cleared from (those) locations", and "provide a good-faith plan (and) schedule outlining how the sites would be cleared" within four months (Hoover 2008). Chagrined Army representatives at Mākua – were now required to operate under the increased scrutiny, supervision, and regulation of the federal courts. Four months after the original trial, Mālama Mākua again brought the Army to court (Cole 2008c). They explained that no public hearings had been held to identify of high priority archaeological sites since the 2003 fire – which

exposed, "54 new Hawaiian sites with hundreds of features" (Cole 2008c). The trial sparked another round of framing contests regarding the value of Mākua.

A year after the closing of the cultural access court case, the Mākua EIS was released on June 6, 2009 and included plans to immediately resume live fire training in August (Oʻahu Community 2009). Their conclusions echoed similar recommendations that had been released in the Stryker EIS just one-year prior. After reviewing the contents, Mālama & Earthjustice filed another lawsuit, making arguments that key studies and surveys were poorly conducted, insufficient, and blatantly disregarded the terms of the settlement (O4S). They firmly asserted that this constituted grounds for challenging the resumption of training at Mākua. In the O4S, the Army had agreed to conduct,

> comprehensive subsurface archaeological surveys to identify cultural sites that could be damaged or destroyed during training exercises, as they have in the past. The Army also agreed to conduct comprehensive studies to determine the potential for training activities to contaminate fish, shellfish, limu and other marine resources at Mākua that Waiʻanae Coast residents gather for subsistence purposes. When the Army published a draft EIS in 2005 that did not include the studies, Earthjustice sought to enforce the 2001 settlement. The two sides reached a second settlement in January 2007, with the Army again agreeing to conduct the detailed studies before releasing the final EIS. (Earthjustice 2009a)

Henkin noted, ""But once again, this was not done…The only studies the Army did were so poorly designed that even the Army admitted they didn't provide any meaningful information. This wasn't what we agreed" (Oʻahu Community 2009). The "Army (sought) to dismiss Mālama Mākua's complaint, arguing that, regardless of the scientific adequacy of its studies, it had met all its responsibilities under the settlement agreements" (Earthjustice 2009b). This reaction revealed a dissonance from previous military framing efforts that had emphasized the quality of their culturally responsible stewardship and environmental care by a commitment to adequately research the impact of their actions on community well being. Judge Susan Oki Mollway overturned the Army's attempt to dismiss the Mālama Mākua lawsuit, saying that, "[t]his court

is not persuaded by the Army's overall argument that, as the settlement agreements required no particular methodology, any methodology sufficed" (Earthjustice 2009b). Her initial court ruling further extended the incomplete status of the final EIS, and the cessation of live fire training at Mākua that dated back to 2004.

Judge Mollway's final ruling was released on October 2010, and explained, "that the Army failed to give the community crucial information on how military training at Mākua could damage cultural sites and contaminate marine resources on which area residents rely for subsistence" (Earthjustice 2010). She upheld Mālama's claim that the Army had not completed the additional studies required under the terms of their agreement, which meant that training would be precluded indefinitely –until these matters were resolved. She further ruled that Army neglected to provide meaningful information via subsurface archaeological surveys and "comprehensive surveys to determine the potential for training activities to contaminate fish, shellfish, limu, and other marine resources" (Earthjustice 2010).

> Mollway agreed with Mākua Mālama on two points. The Army did not conduct an archaeological survey of below-ground cultural sites because it had assumed that there was a high likelihood of sites in those areas. The Army was not justified in merely assuming that subsurface sites existed (in those areas) given the settlement agreements' requirement that the Army actually conduct subsurface surveys of all areas. The judge also agreed with Mālama Mākua that the Army violated a settlement agreement by simply concluding that the limu at Mākua Beach was contaminated and potentially dangerous to human health. She said such a conclusion is not a "meaningful study" because the Army did not test seaweed at other locations to evaluate the impact of the Army's activities on the limu. In addition, the judge said she was not convinced by the Army's suggestion that arsenic levels found in the limu at Mākua Beach were the same as levels in limu all around the islands. (Kobayashi 2010)

The contents of her ruling created another barrier that prevented a return to live fire training. Her detailed critique illuminated the Army's unfulfilled environmental and O4S responsibilities, which were exemplified by the fact that they did not provide the community with vital information regarding the impact of training on their health. This

court case was a single strand in a long series of court cases that consistently revealed gaps in the Army's adherence to their responsibilities as a good neighbor, and environmental/cultural steward of land.

By 2010, the tenacity and successful persistence of Mālama & Earthjustice's activity in the judicial branch – initiated a transformation of Army framing regarding Mākua. The first change was the head of the U.S. Army Pacific, Mixon's decision to move live fire training from Mākua to Pohakuloa, and "shift the use of Mākua toward training soldiers to cope with convoy fighting and roadside bombs, known as improvised explosive devices" (Army Needs 2010). The second frame adjustment was that the Army began to emphasize their work to build a council that would bridge relationships with the Native Hawaiian community, but "the Army did not invite several Hawaiians embroiled in ongoing disputes with the Army to join the council" (McAvoy 2010). The shifts signified the initiation of frame transformation in approaching the conflict at Mākua by adjusting proposed land usage and creating alliances with a Native Hawaiian council that could affirm their commitments to cultural resource management.

But upon Mixon's retirement in 2011, his replacement Lt. Gen. Francis J. Wiercinski returned to original configurations of the Army's moral claims to training at Mākua that had been observed between 2001-2006.

> 'We're going to be very respectful of culture. We're going to be very respectful of the environment. In fact, I don't think anybody does it better than us when it comes to protecting the environment and being cognizant and protective of cultural sites,' he said. 'But in the end I also have to be protective of our greatest resource — our sons and daughters. And you know what? We're good enough. We can do all three of those things.' (McAvoy 2011)

The recycling of the Army's previously unsuccessful framework took place in the same year that Mālama & Earthjustice successfully challenged the adequacy of their marine studies in fulfilling the O4S agreements. Judge Mollway ruled that that the Army failed

to provide the community with the information that was promised regarding the impact of training on their marine resources, because they performed tests on marine resources that residents didn't consume (Earthjustice 2011). This court victory delayed the return to live-fire training until the marine studies were satisfactorily completed. A revised marine studies report came out in January 2013, and the public commentary period regarding these studies closed in March of the same year.

In retrospect the O4S was a groundbreaking legal document that created alternative protocols for soliciting the Army's accountability towards the community, monitoring military training, expanding community participation in scoping processes, ensuring cultural access on a live training range, and initiating clean up efforts during training occupation. It has had a cumulative effect of legal expenses, devastating consequences, and substantial challenges for the military. This state of affairs has inevitably increased the costs of maintaining Mākua as a functional training facility, and might possibly contribute towards the serious consideration of the release of Mākua as live fire training range. The Army's argument that Mākua is essential to maintaining troop readiness has eroded due to the fact that under the O4S, they haven't held live fire training exercises in Mākua between 1998-2001 and then again from 2004-2013.

The first four sections of the O4S described the terms of EIS completion and the parameters of permitting training exercises. The Army had agreed to complete an EIS within three years. Though they had advocated towards a suggestion that they should be permitted minimal amounts of training at Mākua indefinitely even if the EIS was not completed in the time allotted, Mālama had not relented. This proved to be a crucial sticking point that eventually exposed the Army's inconsistencies in following through with their agreement. It created embarrassing spectacles where the military appeared to shirk their responsibilities to community and environmental stewardship in the efforts to evade EIS completion. Though in the short

term, the O4S weakened Mālama's primary framework that declared that training at Mākua was inappropriate. But in the long term it invalidated the Army's claim that Mākua was essential for troop readiness. William Aila of HuiMOM said,

> The Army has clearly demonstrated that it can train Hawai'i based soldiers elsewhere. In six of the last nine years, the Army has done zero training in Mākua, and trained minimally during the other three years. Each unit sent to Iraq and Afghanistan has been praised by their generals as being the best trained. No training at Mākua in the last three years proves our point. The Army no longer needs it! It may want it but, through its own actions, it has made our point (2008).

The Army had also asked for a total of 37 CALFEX's but only completed 22 over three years. Some of the discrepancy can be accounted for by the 2003 fire incident that triggered a USFWS review and halted training for several months. This section of the agreement also set limits on the types of training that would be allowed at Mākua during those years, requiring any modifications to be formally approved by Mālama and Judge Mollway. In the short term – it required large amounts of time and commitment from Mālama members –that limited their capacity to increase membership, and further weakened their claim that training at Mākua was inappropriate. In the long run, it created platforms for greater community participation and awareness in ensuring that environmental/cultural safeguards were in place during exercises.

The fifth paragraph of the O4S set precedents for community participation, and created protocol to reduce participation barriers in EIS processes. These guidelines shed light on some of the standard practices that created obstacles and limited public involvement (i.e. the scheduling of hearings that affected the Wai'anae communities were located in distant geographic locations and at inaccessible times during the work week which made participation challenging). It also created a moral victory in the establishment of systems that were legally required to validate the Hawaiian language.

The sixth paragraph required the Army to provide the community with important information about the impacts of training on their health, the environment, and the cultural and archaeological resources at Mākua. After the release of the final EIS in 2009, the lack of fulfillment of this concession further extended the EIS process for another 3 years. The sections of the cultural and archaeological studies that were done laid the groundwork for radically expanding the community's, Army's, and state official's sense of Mākua's cultural significance. It also substantively changed the understanding of Mākua's cultural resources, and provided evidence for the stronger advocacy of Mālama's position that Mākua was an inappropriate place to train.

> Surveys resulted in the discovery of scores of sites, and have been transformative in terms of knowledge and the extent of settlement, and shifted paradigms of Mākua as an uninhabited place, to speculation that it was a place of seasonal fishing settlements, to the discovery that every square inch of the valley is covered in loʻi, burials, and other evidence of long term settlement. This radically expanded the understanding of the place, and of the cultural deposits that are there. (Henkin 2008)

This paragraph also mandated clean up and removal of UXO on active training grounds, which represented an unprecedented measure to reform military clean up protocol. Mālama members cited that they had learned their lesson from watching the lack of funding for clean up processes at Kahoʻolawe post training (Dodge 2008; Rodrigues 2008). In an effort to reduce the amount of clean up required once Mākua is returned, Mālama had opted to require incremental progress of ordnance clean up now. The next paragraph set a precedent for the transportation of munitions to Mākua emphasizing the community hazards that this process entailed. It created systems to ensure the safety of the Waiʻanae community by minimizing exposure to these explosives.

The last paragraph addressed the issues of community access to training grounds. Since 2001, Mālama members were able to plan public access visits twice a month, and overnight

accesses twice a year. Mālama is also able to observe training at Mākua – to ensure compliance of regulations that safeguard cultural and environmental resources. Since that time, Mālama has hosted 1000's of people during cultural visits, revived Makahiki ceremonies, and observed Christmas & Easter services at Mākua. These cultural accesses are designed to raise awareness and increase the dissemination of education about the significance of Mākua. Despite strict Army procedures that prohibit civilian access to training grounds, the Army entered into a legally binding contract that overrides their own policies. The Army has challenged this right to access on numerous occasions, but Mākua remains as one of the only active training grounds that contains unexploded ordnance, that permit regular cultural visits.

CHAPTER 9: DISCUSSION & CONCLUSIONS

This research develops a descriptive case study of the framing strategies presented in the Mākua struggle. This study aimed to address three research questions: 1. What frames/stories were available in the media, how did this differ from those available in interview narratives?, 2. What effects did the legal strategy have on the struggle at Mākua?, 3. How did 9-11 influence those processes of change?

There were considerable differences between media frames and interview narratives. Media coverage limited the transmission of pertinent background to stories that had implications regarding the shaping of public opinion in support of varying framing contests. The coverage of the inception of the 1998 court case, and the 1999 jeopardy ruling illustrate the marked contrasts between the limited lens of the media and the explanatory power of narrative interviews. Media frames also marginalized certain frames that were present in interview narratives. Claimsmakers involved in the litigation at Mākua were granted premier coverage in the media, but alternative perspectives received marginal exposure. Some of these marginalized perspectives included wrestling with Mākua's issues in the context of advocacy for Hawai'i's sovereignty, critiquing Hawai'i's overpopulation in correlation with military expansion, volatile economic dependency on the military, the dispossession of native lands by the military, and the disparate impact of training on poor communities. These claims were all diluted and scarcely portrayed in the media. McCarthy et al. confirms this process of framing cooptation by observing that news media, "can be expected to select and shape news events in ways that do not threaten their own or their sponsor's interests (Gamson et al. 1992)" (1996:481). An examination of the marginalization of perspectives can also be extrapolated from Widener's research on the impacts of transnational campaigns on pipeline construction. In her study she concludes that, "the scientific (academic) contributions of domestic groups become mostly vignettes, and local

perspectives become anecdoctal in the larger debate" (2006:28). Over time, media coverage ignored diverse frames present at Mākua, and overwhelmingly represented the legal frame constructions of the case. This process kept framing contests in the media in shallow waters and limited the dialogue about cultural access to Mākua as the mere preservation of historical sites long bereft of meaning or application to modern settings. But in the context of broader discussions, cultural connections at Mākua were expanded to include the cultivation of place as a historical and spiritual repository of knowledge that strengthens identity, and increases awareness of applicable genealogical wisdom to resolve current challenges of overpopulation, community distribution of resources, and sustainability questions. It is far more compelling to fight for the deep implications of this type of definition of cultural health versus the narrow, abstract, and seemingly irrelevant idea of preservation for mere preservation's sake.

One of the barriers that social movements face is described by Gamson as the, "depth of challenge dilemma" where,

> movement actors challenge deeply held, taken for granted assumptions of the dominant frame. (T)he danger (of) doing so (results in) marginalization and dismissal as irrelevant – thereby making (their) frame invisible and effectively silencing its carriers" (Gamson 2007:250).

This dilemma is an accurate description of one of the challenges at Mākua. Claimsmakers who participated in environment lawsuits became increasingly and disproportionately represented, while actors who advocated for access to land based on claims to Hawaiʻi's sovereignty, and the critique of a capitalist economy dependent on militarism as exploitative were muted in the media. Variant frames, that were often the foundations for mutually ignored protest events, became visible only in interviews with HuiMOM, Mālama, and ASFC group members whose storytelling tied the Mākua struggle to sovereignty, the exploitative quality of militarism, and advocacy for the removal of all training grounds from Hawaiʻi and abroad.

The long-standing litigation strategies used at Mākua helped to achieve issue visibility in media coverage and political attention in a way that protest gatherings alone were unable to actualize. Newspaper events "likely capture those events most salient to lawmakers and the public (Earl et al. 2004; McAdam and Su 2002)" (Johnson et al. 2010:2275). Protests regarding Mākua were largely unrepresented in the media, and were marginally discussed only during seasons of high media coverage of the court case outcomes (McCarthy 1996:494). This aligns with McCarthy's findings that, "(t)he vast majority of demonstrations are ignored by the mainstream media", and "when the volume of coverage for an issue is large, pertinent protests, even small ones, are more likely to attract coverage" (McCarthy 1996:494).

Over the course of time, litigation impacted the prominence of the issue in the media by influencing frame credibility in two ways: frame consistency and the credibility of frame articulators. According to Snow & Benford, "(t)he credibility of a frame is a function of three factors: frame consistency, empirical credibility, and the credibility of frame articulators" (Benford & Snow 2000). By virtue of the sustained nature of the legal struggle, both parties engaged in frame contests that exposed flaws in frame consistency in their opponent's views. "A frame's consistency refers to the congruency between an (organization's) articulated beliefs, claims, and actions. Thus, inconsistency can manifest itself... in terms of apparent contractions among framings and tactical actions" (Benford & Snow 2000). Debates over the primacy of moral framework that influenced the court case were captured by the media, and were heighted after the 9-11 attacks as an epic unfolding drama of a David & Goliath battle. In the process, both Mālama and the Army pointed out incongruences in one another's framework. Mālama's frame inconsistencies became especially apparent during the O4S, as their framework began to adopt the language used by the Army to justify training at Mākua in the face of national security needs. The Army's frame inconsistencies on the other hand were visible in periods following

multiple fires that razed Mākua, and their inability to complete the EIS and supporting studies required by the O4S. The litigation strategy also impacted the perceived credibility of frame articulators by involving citizens with "greater status and/or perceived expertise from the vantage point of potential constituents" who produced "more plausible and resonant framings" regarding the issues at Mākua (Benford and Snow 2000:621). The longevity of the issue persisted and introduced the potential for economic risk – because Mākua indirectly challenged the underlying reality of a state that was economically dependent on military funding for financial health. The court cases at Mākua contributed to the shaping of similar challenges to the $1.5 billion Stryker placement at Pohakuloa in Hawai'i. As a result of the potential for disturbing Hawai'i's economic mainstays, the issue drew in the participation of relatively high status claimsmakers that included legal experts (lawyers and judges), USFWS authorities, and elected officials (city council, state, and federal representatives).

As exemplified by this study, the power of the legal strategy is limited but can be influential. It can provide avenues to increase awareness of contentious issues via the media and legitimize claims made about a particular issue through the involvement of various legal and scientific experts. The legal strategy can even expand the framework of legal definitions to include selective claims that fit particular cases, and can strengthen the capacity of an issue to persist over time. In the case of Mākua, definitions of federal environmental regulations were expanded to include the influence over federal agency's actions that impacted cultural and communal health. But in this case, frames that advanced in the media were those that were applicable or relevant to the case, were usually representative of the Army's voice, and are not representative of the spectrum of claims within the struggle. So while court cases created platforms for grievances to gain ground, there are limits to the degree which community voice is amplified. Due to increased visibility, court strategies can increase the possibility of provoking

the participation of government officials in the debate, and if the case has ties to the economic well-being of a state this participation can be complicated. This study of Mākua verifies "research (on movement organizations and environmental public policy that) confirms that movements have greater efficacy at the earlier agenda-setting stage of the policy process than at the more consequential and contingent law-passage stage" (Johnson et al. 2010:2284).

The events of 9-11 immediately arrested the momentum of the NEPA/EIS court case, momentarily diminished the coverage of Mākua while elevating the presentation of war preparation, and introduced a rare situation that coalesced in a unique legal agreement (O4S). The cumulative impacts of the litigation strategy, and the resulting O4S that emerged in response to 9-11 were far-reaching and extensive. While the litigation increased the visibility of framing contests and the participation of government officials at Mākua- the O4S influenced social, political, and cultural transformation.

This case study presents the variance of frames available in media portrayal and storytelling, traces the effects of the legal strategy for achieving movement objectives, and examines the influences that 9-11 attacks and subsequent framing transformations had on processes of change at Mākua. The research has hopefully enhanced an understanding of the relationship between the framing process within the media and storytelling, the unique aspects of legal strategy in influencing stewardship struggles at Mākua, and the results of innovative adaptation to the stark political shifts that occurred after 9-11.

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