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Engaging the disenfranchised:
Indigenous peoples and equitable environmental, cultural, and land-use planning

DISSERTATION

Submitted in partial satisfaction of the requirements
For the degree of

DOCTOR OF PHILOSOPHY

In Planning, Policy, and Design

By

Hiroshi John Ishikawa

Dissertation Committee:
Professor Scott A. Bollens, Chair
Professor David L. Feldman
Associate Professor Tim-Allen Bruckner

2017

DEDICATION

To

My father for always emphasizing the importance of education

My mother for her love and support in good times and bad

My brother for his humor

My sister-in-law for her peacefulness

My aunts for their love and support throughout my life

My uncle, cousins, and in-laws for their support

My friends for always having my back

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All of the friends that I have made during my time at UC Irvine for keeping things fun

TABLE OF CONTENTS

Page

LIST OF FIGURES

LIST OF TABLES

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ABSTRACT OF THE DISSERTATION

Engaging the Disenfranchised: Indigenous Peoples and Equitable Environmental, Cultural, and

Land-Use Planning

By

Hiroshi John Ishikawa

Doctor of Philosophy in Planning, Policy, and Design

University of California, Irvine, 2017

Professor Scott A. Bollens Irvine, Chair

The poor, women, immigrants, and racial minorities disproportionately bear the social, cultural, economic, and environmental costs of the land-use and natural resource planning processes. These negative social and environmental outcomes can be attributed in part to conventional policy and planning principles, which emphasize competitive, majoritarian, and utilitarian decision-making, but fail to adequately consider moral implications. In response to conventional planning, there are alternative planning theories that emphasize the importance of empowerment, cooperation, and transformation. Through the analysis of two exemplary case studies, the Gila River Indian Community and the Arizona Water Settlement Agreement (AWSA), and the Hawaiian island of Kaho'olawe and the Kaho'olawe Island Reserve Commission (KIRC), the author observes how innovative planning practices play out in real world policy and planning settings. The AWSA and the return of Kaho'olawe are first and foremost stories of activists and community leaders fighting for justice. Federal lawsuits acted as the equalizers that facilitated change and collaborative planning. The uniqueness of the AWSA and Kaho'olawe speak to the serendipitous confluence of historical, cultural and political context. Ultimately, equitable planning practices are the "rational" choice for government officials and agencies.

INTRODUCTION

A. Background

The pluralism of conventional American democracy is far from representative. Minority communities, whether they are ethnic or racial minorities, women, the poor, or immigrants, are disengaged from the political, policy, and planning processes (Banduci, et al., 2004; Camacho, 1998; Welch and Secret, 1981). Why then is this a problem? The exclusion of minority voices raises concerns about the spirit of democracy and the maintenance of a civil society. Arend Lijphart has likened the absence of minority input in the policy process to a "tyranny of the majority". Majority rule leads to majority dictatorship and civil strife (Lijphart, 1999; Richie and Hill, 1999). Policy and planning decisions prioritize the interests of the majority, often at the expense of the minority. As a result of this imbalance, minority concerns and issues are underrepresented or ignored altogether (Griffin and Newman, 2008; Lijphart, 1999; Richie and Hill, 1999). From the inner cities to the reservations, minority and lower income interests have little to no political voice (Bullard and Johnson, 2000; Lijphart, 1999; Camacho, 1998). Further complicating matters is the emphasis on competition over collaboration. Rather than working together, different groups and interests see themselves as being at odds with one another (Bluhm and Heineman, 2007; Camacho, 1998; Beatley, 1994). The process becomes even less representative and more contentious. As a result, minorities, lower income communities, women, and immigrants bear the brunt of the negative social and environmental outcomes from land and natural resource policy and planning decisions (Bullard and Johnson, 2000; Camacho, 1998). Therefore, in order to ensure that the interests and needs of underrepresented minorities are meaningfully included in the policy and planning discourse, the process will have to become less exclusive and competitive, and more multicultural, deliberative, inclusive, and collaborative.

Rather than continuing to rely on winner-take-all and unilateral top-down policy and planning processes, certain theorists contend that greater emphasis will have to be placed on diversity, discourse, and collaboration, and efforts will have to be made to better engage the disenfranchised. The policy and planning processes can be altered to emphasize a greater sense of community (Bellah, 1996). Disengaged and disenfranchised communities can be empowered (Young, 2002; Camacho, 1998). Different groups and interests can learn to work together (Innes and Booher, 2010; Healey, 1997; Susskind and Cruikshank, 1987). There are a multitude of theoretical perspectives that address these goals.

The core principle behind discursive and deliberative democracy, multicultural planning, inclusive processes, collaborative planning, and activist/progressive planning, is to engage all, particularly disenfranchised, communities, in the policy and planning processes. Thus, the fundamental goal is make policy and planning processes more inclusive, collaborative, and equitable (Innes and Booher, 2010; Forester, 2009; Young, 2002; Umemoto, 2001; Camacho, 1998; Hoch, 1994; Dryzek, 1990; Susskind and Cruikshank, 1987; Arnstein, 1969). In particular, these principles are often enacted on the local or community level where planners, officials, agencies, and policymakers are more accessible to the general public (Forester, 2009; Umemoto, 2001; Camacho, 1998; Dryzek, 1990; Arnstein, 1969). Moreover, these alternative planning theories emphasize that the duty of planners goes beyond the traditional role of detached analyst, to include broader functions, such as translators, brokers, and activists (Umemoto, 2001; Camacho, 1998; Hoch, 1994; Young, 1990; Arnstein, 1969; Davidoff, 1965). The question then becomes how do these related but yet distinct theoretical concepts manifest in real world policy and planning settings, and how do planners and officials operationalize equitable processes in praxis, particularly when policy and planning issues are especially contested and controversial.

The planning and management of tribal and indigenous lands and natural resources often involve having to negotiate, mediate, and adjudicate between divergent values, beliefs, and interests. In general, the land use planning and management process already involves having to negotiate between a wide range of interests and stakeholders. For instance, land management and local governmental agencies normally have to mediate and arbitrate between business interests, recreational users, conservationists, and local communities (Burton, 2002). However, the planning of land and natural resources can become especially challenging when negotiating attitudes and beliefs that are diametrically opposed, which is usually the case when it comes to the stewardship of sacred indigenous land and water. Spirituality, which is the guiding principle for how indigenous peoples want to care for the land (Burton, 2002; Camacho, 1998), and utilitarianism/capitalism, which is often how land-use planning decisions are made (Beatley, 1994), are in conflict. The ongoing protests over the telescopes on Mauna Kea, Hawaii, a sacred site to the Native Hawaiians, and the Dakota Access Pipeline scheduled to tunnel through sacred land on the Standing Rock Indian Reservation, are just a few current examples of conflicting beliefs about the land, nature, and environment. Thus, the planning, management, and stewardship of culturally and spiritually sacred indigenous land and natural resources has its own unique challenges.

Critical to ensuring that the policy and planning process is fair and just, particularly when there is a wide range of often-conflicting interests and values, is that all stakeholders actively participate, and are empowered to do so in a significant and meaningful manner. Unfortunately, minority communities, including indigenous populations, do not participate in the policy and planning processes (Banduci, et al., 2004; Camacho, 1998; Welch and Secret, 1981). Moreover, the planning process is constantly in danger of becoming meaningless or symbolic (Arnstein,

1969) or captured by self-interest (Fung and Wright, 2001). The lack of transparency and inclusiveness in the water resource planning process in Flint, Michigan, and the rerouting of the Dakota Access Pipeline away from the predominantly white, Bismarck, North Dakota, to the Standing Rock Sioux Indian Reservation, illustrate that concerns about the land and natural resource planning process exist beyond the realm of theory. Understanding what facilitates environmental, community, and land-use policy and planning processes to become more equitable in a practical applied sense, whether it is operating from multicultural, deliberative, inclusive, collaborative, or activist principles, is at the core of this research project.

B. Purpose of the Study

In this study, I observed and analyzed what factors (e.g. context, practices) encourage diversity, deliberation, inclusion, and collaboration in the land use and natural resource policy and planning processes. Specifically, I attempted to gain a better understanding of the factors that meaningfully engage and empower disenfranchised communities, as well as encourage collaboration across different communities and interests, in a practicable and sustainable (i.e. over an extended period of time) manner. Thus, throughout the study, I operated off of a broader understanding of "planning" that included advocacy, negotiation, and activism, and included community leaders, activists, lawyers, and negotiators/brokers as "planners". Ultimately, the hope and expectation was to not only identify and observe multicultural, deliberative democratic, inclusive, collaborative, and activist/progressive planning practices in real world settings, but to provide practical information on new and innovative approaches to land and natural resource planning.

While the intention of the study was to understand collaborative and multicultural practices in a broader sense, the select cases focused on indigenous communities, and the

stewardship of culturally, socially, politically, and spiritually sacred indigenous land and natural resources. The management of indigenous land and natural resources provides unique and powerful analytical leverage for the feasibility of collaborative and multicultural planning alternatives due to competing, often conflicting, values concerning the land and environment, paired with a long troubling colonial history where land and natural resources were stolen from indigenous people. Thus, by observing the practices and processes that occur between indigenous communities and planning and government entities in the face of these conflicting beliefs and difficult history, the intention was to observe cases that posed especially difficult challenges for equitable and collaborative principles.

Whether it is historical context, political context, or community activism, there were observable and identifiable factors that encouraged equitable and collaborative land use and natural resource policy and planning practices. I observed and analyzed two cases that, at least from initial research and analysis, went against the norm of competitive and exclusive planning. In both cases, multicultural, deliberative, inclusive, collaborative, and progressive policy and planning practices led to community empowerment. By identifying, understanding, and explaining the factors that lead to these unique cases where discourse, diversity, and collaboration emerged, the ultimate goal was to provide evidence that alternative planning practices can empower and bring communities together. Furthermore, by providing real world examples, the study will help improve current planning practices by providing tangible features of collaborative and multicultural land and natural resource planning practices, particularly given ongoing and emerging issues and concerns with environmental and social justice.

C. Research Contribution/Importance of Study

Besides expanding on the literature on minority political participation, and providing empirical observations and analysis in the fields of multicultural planning, deliberative democracy, collaborative planning, and progressive planning, the ultimate goal of this study is to identify model practices and tactics that empower disenfranchised communities and encourage collaboration in the land and natural resource planning processes. Given ongoing and emerging concerns over environmental and social justice, and Native rights, now more than ever, it is important to consider applicable alternative policy and planning theories and practices that empower and engage disenfranchised communities. Although much has been written on multicultural planning, deliberative and discursive democracy, collaborative management, and progressive planning going back to the late 90s (Buck, et al., 2001; Dryzek, 1990), there is little empirical evidence of their successes or failures (Bluhm and Heineman, 2007; Bellah, 1996). Thus, the discussion has been mostly a theoretical one to date. Through the case study findings and analysis, I am expanding on the empirical knowledge, as well as providing nuances to the theoretical framework and paradigm. It is my intention to advance theory, as well as make practical and socially relevant policy and planning recommendations.

One goal of the study is to advance theory and policy by observing and analyzing equitable planning concepts and principles in real world contexts. It was the expectation going into the study that elements of the different theories (e.g. multicultural planning, deliberative democracy, inclusive processes, collaborative management, and activist/progressive planning) would be present in the both of the case studies. As expected, there were examples of multicultural, progressive, and collaborative practices in the case studies, but in varying forms and to varying degrees. In other words, there were not separate and distinct examples of

"deliberative democracy" or "activist planning" by case, but rather that each case included certain elements of all or some of the various theories depending on the context and situation. Thus, the various theories of collaborative, multicultural, and inclusive planning were observed and embedded in complex real world contexts.

Another contribution of this study is that it will add to the theoretical and practical discourse on land use ethics, particularly as it concerns the beliefs, experiences, and practices of indigenous peoples. Although the general analysis and framework of this study is intended to apply to all disempowered and disenfranchised minority groups, specifically as far as environmental justice is concerned (e.g. Flint, Michigan), this study paid particular attention to how different governmental and political entities (e.g. State of Arizona, Kaho'olawe Island Reserve Commission) engaged with indigenous peoples (e.g. the Gila River Indian Community, Native Hawaiian) in the environmental, cultural, and land-use policy making, planning, and management processes. Going in to the study, there was a strong theoretical justification for focusing on indigenous people and planning.

Indigenous peoples around the world believe that the land and environment are sacred. This belief comes in conflict with the traditional utilitarian individualistic ethical paradigm that drives land-use decision-making in America and other Liberal capitalist democracies (Bluhm and Heineman, 2007; Camacho, 1998; Bellah, 1996; Macpherson, 1962). As a result, land-use policy decisions involving land and natural resources held sacred by indigenous peoples are often contentious (Burton, 2002). At the core of the conflicts over Mauna Kea, Haleakala, Standing Rock, Kaho'olawe, Makua Valley, and the Gila River are competing values and beliefs about the land and environment. Thus, the management, regulation, and protection of sacred land provided a significant test for the capacity of deliberative and collaborative policy and planning

approaches. The information gained from the observations and case analysis aided in the theoretical and practical development of this paradigm by focusing on a highly contentious issue area. Furthermore, by focusing on Native American and Native Hawaiian spiritual land and water, this study provides new insight regarding indigenous peoples within the framework of land use planning and policy. There was much gained by focusing on the land-use planning and management of sacred land and water, and the impact the process had on indigenous communities.

Ultimately, it is my hope that my study will inform policy and planning processes on how to empower, and reconcile and collaborate with disenfranchised communities. Environmental and social justice concerns are relevant now more than ever. The situations in Flint, Michigan and Standing Rock are just the tip of the iceberg. There are many inner city, low income, and reservation communities without proper water, clean air, or land free of contaminants. While deliberative democracy, collaborative management, and multicultural and progressive planning have a rich body of theoretical work, empirical evidence of their successes and failures is still relatively new (Bellah, 1996). By looking at real world examples, such as the Gila River Indian Community and Kaho'olawe, where equitable environmental planning processes are being implemented, I have been able to not only better understand the how and why these "successes" in environmental planning occurred, but also explain how to implement successful programs, practices, and processes in the future.

D. Research Questions

Whether it was the dedication of community leaders, the impact of federal statutes and lawsuits acting as an equalizer, or historical and cultural context, there were different factors that affected community engagement and empowerment, and collaborative working relations.

Through interviews and observations, and case study analysis, I was able to uncover different characteristics, factors, and actions that facilitate more equitable planning processes, and answer the following questions.

1. Are there endogenous (i.e. internal) organizational characteristics (e.g. community oriented agencies or structures, cultural orientation of staff) that facilitate or hinder more multicultural, deliberative, inclusive, collaborative, and progressive practices by planning and governmental agencies? Are certain agencies and organizations more receptive and adaptable to alternative equitable planning practices due to these endogenous characteristics?

2. Are there exogenous (i.e. external to the organization or agency) factors (e.g. historical context, regional politics, geography) that facilitate or hinder more multicultural, deliberative, inclusive, collaborative, and progressive practices by planning and government agencies? Does the influence of these distinct cultural, political, geographical, historical, and other contextual factors suggest that the duplication or transferability of successful alternative equitable planning practices is not feasible?

3. What is the impact of leadership and concerted activism on bringing about more multicultural, deliberative, inclusive, collaborative, and progressive practices by planning and government agencies? How much of the enactment of alternative equitable planning practices is due to the effort and influence of certain outstanding individuals who act as activists, catalysts, and multicultural translators within the policy and planning processes, and organizations?

CHAPTER I. LITERATURE REVIEW

Despite some distinctions, the literature and research on deliberative democracy, inclusive processes, collaborative management, multicultural planning and activist/progressive planning all emphasize one key principle, which is the importance of empowering and engaging all interested and affected parties in the policymaking and planning process. For the most part, the literature is critical of traditional liberal democratic approaches to policymaking, as well as utilitarian approaches to planning. The main argument is that the American policy and planning culture, which is fundamentally liberal in the Lockean sense and utilitarian, is the reason why segments of society (e.g. racial and ethnic minorities, women, the poor) are disengaged from the process (Bluhm and Heineman, 2007; Bellah, 1996; Dryzek, 1990). At large winner-take-all elections lead to majority interests dominating at the expense of minority and underrepresented interests (Lijphart, 1999). Utilitarian, capitalist, and individualistic priorities ignore issues of fairness, community, and distributive justice (Beatley, 1994; Macpherson, 1962). As a result, there are serious concerns for the maintenance of a just and fair democratic society. Issues of fairness and justice are of particular concern in the land, natural resource, and environmental policy and planning decision-making processes, which involves having to balance different, and often conflicting, public and private interests.

A. Land and Natural Resource Management in the United States

Land and natural resources in the United States are both publicly and privately owned. Much of the federal land at the heart of indigenous and Native concern falls under the public domain. Public domain or public land is land held in trust for the people of the United States by the federal government. The U.S. Constitution vests Congress with the power to "dispose and make all needful rules and regulations respecting the Territory or other property belonging to the

United States" (Rosenbaum, 2005, p.289). Normally, the purpose of publicly owned land is to protect and preserve the land and environment for public interests and purposes. However, in addition to land owned by the government for public purposes and land owned by private entities for private interests, there are also land trusts. Land trusts are non-profit groups, including both private organizations and governments agencies. The purpose of land trusts is to protect natural resources and open space through land transactions, including conservation easements (Wilkinson, 2000). Thus, in order to understand land and natural resource planning and policy in the United States, particularly the West, it is important to remember that there are conflicting interests and ownership stakes. However, despite the nuances, all of the different types of land designations are under the jurisdiction of federal, state, tribal, and local legislation, planning, and management.

When observing and analyzing land and natural resource policy and planning in the United States, one must look at both the legislative and the management/regulatory aspects. The land and natural resource (e.g. water) policy and planning legislative process is decided on the federal, state, tribal, and local level (Rosenbaum, 2005; Wilkinson, 2000). Agencies and legislators as high as the U.S. Congress down to the city planning level determine land and water rights uses. Legislators ultimately determine how land and natural resources are to be used. For instance, some lands are legislated as "multiple use", which as the name states can be used for multiple purposes or uses (e.g. logging, recreational, cultural, etc.). Other land has stricter protections over usage due to environmental, cultural, and other reasons (Rosenbaum, 2005). Legislation such as the National Environmental Protection Act and the Historical Preservation Act has played a key role in the political battle over land use. Thus, with such high stakes, legislative decisions regarding land and natural resources occur in a highly politicized setting.

In the United States, multiple interests compete to influence the legislative environmental policy agenda. Some groups have more influence in this arena than others based on financial resources and political connections (Lijphart, 1999; Dryzek, 1990; Young, 1990). Thus, as is the case in other policy areas, the richest and most well heeled interests usually have a greater voice. As a result, interests geared towards development and resource extraction disproportionately influence the land and natural resource policy agenda (Burton, 2002; Camacho, 1998). However, the legislative process is just one part of land and natural resource policy and planning. Along with the decision-making process, land and natural resource policy and planning also involves administration, management, and regulation.

While legislators determine the formal uses of land and natural resources, administration and regulation of public domain land is carried out by the regulatory agencies, such as the National Park Service and the Bureau of Indian Affairs (BIA). The Bureau of Indian Affairs (BIA) is the regulatory agency that administers and manages the 55.7 million acres of land held in trust by the United States for American Indians, Indian tribes, and Alaska Natives. Thus, agencies such as BIA must make administrative and regulatory decisions vis-à-vis a complex setting of multiple, often competing interests (e.g. tribes, state and local governments, private interests)(Rosenbaum, 2005; Wilkinson, 2000). How the land and natural resources are used and by whom is determined by a complex planning process.

Government agencies generally adhere to regulatory and scientific planning principles in administering access to public lands. However, given the competing interests involved, land and natural resource planning is rarely ever a value-neutral operation driven solely by facts and analysis. Although the planning process attempts to be fair and objective, there is a discord between the idealized notion of land-use decision-making and land management, and the

political reality. Making land-use and natural resource decisions based solely on empirical analysis and unbiased principles is nearly impossible for a variety of reasons, including the fact that many land-use and natural resource decision patterns are based on past decisions, there is no one cohesive theory of land-use planning, and there are too many interested actors (Greenland, 1983). Although there is an attempt at scientific analysis, that analysis is influenced by the beliefs and philosophies of those conducting the analysis, as well as the various interests lobbying and communicating with those making the final policy and planning decisions.

While science is often the guiding principle behind land and natural resource planning and management decisions, the scientific ideals and principles used to guide the process are still value-based and not value-neutral. The scientific approach to land management is often referred to as "scientific management". However, the "scientific management" approach itself is value laden. The scientific management approach sees the environment as a "trove of latent commodities" waiting to be harvested, and the key goals of scientific management are environmental stability and resource permanence (Buck, Geisler, and Schelas, 2001). Thus, although driven by analytics, the scientific management approach to land and natural resource planning is based off of economic principles that view the land, water, and environment as assets. Commodifying the environment for the sake of analysis is not a value-neutral action. There are other interests and perspectives that view and value the land differently. For instance, there is conservationism. The emergence of land trusts in the 1950s and later in the 1970s was in response to concerns that public domain and lands would not be enough to protect and preserve sufficient land and wilderness (Wilkson, 2000). Conservationism is just one of the many land use ethos that come in conflict with the prevailing scientific, capitalistic, and utilitarian approach to land and natural resource management.

Land management in the United States, whether over private or public land, is not a value-neutral or multicultural endeavor. Rather than being driven by neutral and impartial analysis, or analysis that considers multiple ways of knowing, ultimately natural resource decisions are made based on utilitarian values and economic priorities (Buck, et al., 2001; Bellah, 1996; Beatley, 1994). However, utilitarianism, capitalism, and scientific management are not the only way to view and value the land and water, and may not be the best way to care for the environment. There are concerns with relying on a land and natural resource policy and planning process driven almost exclusively by scientific, utilitarian, and economic principles, and majoritarian politics. As such, the process can often become imbalanced from a philosophical perspective (e.g. greater emphasis on financial benefits over social justice), as well as a political perspective (e.g. greater influence of interests with political and financial resources). Such imbalances lead to concerns over social and environmental equity and justice.

B. Critiques of Lockean Liberal Policymaking, and Utilitarian Planning

Deliberative, inclusive, multicultural, collaborative, and progressive approaches to policy and planning are responses to more individualistic and competitive forms of policymaking, and utilitarian approaches to planning and public management. Much of American politics and planning culture is based on Lockean liberalism and utilitarianism (Lijphart, 1999; Bellah, 1998; Beatley, 1990). Classical Lockean liberalism is rooted in individualism. Rather than any moral or social obligation to others, classical liberalism places the normative weight on the value of individuals and his or her self-interests. Based on this conception of "possessive individualism", society is in essence a series of market relations where political and economic society becomes a means of safeguarding one's own private property and individual interests (Macpherson, 1962). Thus, in concert with this Lockean individualism, classic liberal democracy emphasizes that

14

society is a collection of self-interested individuals who believe that the social good is equivalent to the greatest quantity of individual preferences, summed. Normally in liberal democracies, policy is determined via at-large winner-take-all, or majoritarian, elections and politics (Bluhm and Heineman, 2007; Richie and Hill, 1999). However, what is good for the majority is not necessarily just for all.

While winner-take-all, majority rule, elections is the system that we have become accustomed to in the United States and in other Western democracies, some feel that majority rule politics poses concerns for the health of our civil society. Criticisms of traditional majoritarian political and utilitarian planning processes emphasize that the well being of the minority should not come at the expense of the advancement of the majority (Bluhm and Heineman, 2007; Lijphart, 1999; Bellah, 1996). Scholars, most notably Arend Lijphart, have argued that given our polarized and conflicted society, majority rule spells majority dictatorship and civil strife rather than democracy (Lijphart, 1999). As a result, there are serious moral implications. Winner-take-all American politics lock out minority interests, and long-term concerns are supplanted in favor of short-term desires (Bluhm and Heineman, 2007; Richie and Hill, 1999). In effect, traditional majoritarian politics lock out minority interests and concerns.

In addition to winner-take-all liberal democratic elections, minority concerns and values are often obscured in the planning process due to the traditional rationalist and utilitarian ethos. Contemporary land-use and environmental planning is driven largely by a utilitarian ethic and scientific management principles (Buck, et al., 2001; Bellah, 1996; Beatley, 1994). Utilitarianism holds that the morally correct action is the one that will create the greatest aggregate level of social utility or benefits (Beatley, 1994). Thus, utilitarianism usually favors decisions that are best for the majority but often ignore any potential negative impacts to the minority.

While utilitarianism is the guiding ethic for land-use planning, rationality and scientific management is the predominant analytical approach for making land and natural resource decisions. Rationality emphasizes the importance of "best use" or uses of land that yield the highest rate of financial return (Hall, 2002). The scientific management approach sees the environment as a "trove of latent commodities" waiting to be harvested (Buck, et al., 2001). Thus, utilitarian principles, and rational and scientific management practices, applied together favor market-based approaches to environmental planning and policy (Buck, et al., 2001; Bellah, 1996; Beatley, 1994). This is evident in the analytical techniques that guide traditional and mainstream land-use planning (e.g. benefit-cost analysis, highest and best use). However, making environmental decisions based solely on scientific and financial, market-based, analysis can be problematic.

Market-based approaches to policy and planning are often prone to "market failure". Specifically, the market approach is insufficient as an organizing moral paradigm for addressing issues of equity, distributive fairness, or social welfare (Beatley, 1994). Minority interests and concerns become marginalized when the main focus is maximizing the financial benefits for the majority. Moreover, rational and utilitarian approaches to planning assume perfect information, and no barriers to entry, and a level playing field. However, in the day-to-day land use policy and planning world, there are information asymmetries, barriers to entry, and a playing field plagued by social inequalities.

The inherent moral and communicative flaws of utilitarian principles and rational planning practices are compounded by the fact that minorities, the poor, and women are already disengaged from the process. More importantly, this disengagement is further complicated by the structural inequalities, discrimination, and racism embedded in the policy and planning process

(Bullard and Johnson, 2000; Young, 1990). Although designed to be rational and objective, it is important to remember that policy and planning processes exist in a broader framework of social inequality, injustice, and racism. As a result, the disenfranchised bear a disproportionate burden of the negative effects of majoritarian and utilitarian environmental, water, and land-use policies.

C. The Negative Impacts of Majoritarian and Utilitarian Land-Use Management Processes

Due in great part to being politically disenfranchised by majoritarian and utilitarian policy and planning processes, minority and lower-income groups often bare a disproportionate brunt of the social, ecological, and health costs of land and natural resource planning decisions. Studies of environmental hazards indicate that there are significant racial and economic disparities. If you are African American, Native American, Latino, or poor, you are more likely to be at risk from environmental hazards (White, 1998). Race and income are major factors in the location of hazardous waste facilities, food contamination, and the lack of basic services (e.g. water and sewage) (Bath, et al., 1998; Clarke and Gerlak, 1998; Timney, 1998; White, 1998). The Dakota Access Pipeline being rerouted from the predominantly white Bismark, North Dakota to the Standing Rock Sioux Indian Reservation, and the ongoing water crisis in the predominantly African American, low-income, community of Flint, Michigan are just some examples of race and income being a critical factor in the land and natural resource planning process. Based on these outcomes alone, one can conclude that the traditional forms of policy and planning have often failed where justice, fairness, and equity are concerned.

For the affected minority communities, democracy and rational planning have not produced positive outcomes. While majoritarian and utilitarian decision-making processes prioritize economic benefits for the majority, they fail to adequately consider distributive justice for the minority (Beatley, 1994). The discrepancy in the distribution of the social costs and

benefits of land and natural resource planning is often referred to as environmental racism. Environmental racism refers to any environmental policy, practice, or directive that differentially affects or disadvantages (whether intended or unintended) individuals, groups, or communities based on race or color (Bullard and Johnson, 2000). Thus, majoritarian, utilitarian, and rational land and natural resource planning and political processes have exacerbated structural, cultural, social, and political inequality. However, the emphasis on majority interests at the expense of minority groups is just part of the problem. Further complicating matters are the value assumptions tied in with mainstream land and natural resource planning. Traditional planning values the land and nature as property, resources, and commodities, which comes in direct conflict with the belief systems of certain disenfranchised groups.

Utilitarian, market-based, individualistic, and scientific land-use planning and policy processes are particularly difficult for indigenous peoples, such as Native Americans and Native Hawaiians, due to their cultural and spiritual beliefs about the land and nature. Land is fundamental to the survival of indigenous peoples (Susskind and Anguelovski, 2008). The concept of *indigenous* is about a connection to the land (Smith, 2008). This connection is not just cultural, but spiritual as well. Native Americans, Native Hawaiians, The First Nation, and indigenous people around the world believe the land to be sacred. Indigenous peoples consider themselves inseparable from the natural elements of their land and see caring for the land as a moral imperative. Much of the reverence is due to the fact that many indigenous peoples' origin traditions stem from the belief that they were born of the Earth (Burton, 2002; Camacho, 1998). However, despite having deeply rooted spiritual and cultural beliefs about the earth and environment, the values of indigenous peoples have little influence on the traditional land and natural resource planning processes.

Mainstream land and natural resource planning and policy approaches hold little regard for indigenous beliefs and practices. The Lockean, utilitarian, classical liberal, and capitalist ethos views the land as property and a commodity (Susskind and Anguelovski, 2008; Burton, 2002; Macpherson, 1962). Moreover, the utilitarian and rational approach to planning regards the cultural values of indigenous people as irrational relics (Shmueli and Khamaisi, 2011; Lane, 2002). Developers and the military, for instance, view the land and water from the utilitarian perspective, and thus do not understand how or why indigenous peoples see the environment as sacred. Thus, there is a natural tension that exists between the dominant utilitarian and capitalist land management paradigm, and the communal and spiritual view of the land held by indigenous people (Bluhm and Heineman, 2007; Burton, 2002; Camacho, 1998; Bellah, 1996). Along with access and representation, the values and beliefs towards the environment held by indigenous communities pose a particular challenge for majoritarian and utilitarian planning processes.

Although discussions about which disenfranchised groups have suffered the most or longest in the land and natural resource planning process are rarely fruitful, the experiences of indigenous peoples and the failure of traditional utilitarian and rational planning to integrate and accommodate their beliefs in any meaningful manner raise profound theoretical, epistemological, philosophical, spiritual, and policy questions. It is because of these questions that indigenous communities are of particular interest to this study. Indigenous peoples have a fundamentally different value system when it comes to how the land should be cared for, rather than managed, bought, and sold.

D. Indigenous People and Planning

Indigenous communities have a long and difficult history with land-use and natural resource planning in the United States. From being forcefully removed from their ancestral land

up to the Dakota Access Pipeline being rerouted into the Standing Rock Sioux Reservation, major land-use decisions have been made with little to no input from and little regard for Native American people. Along with being excluded from the decision-making process, indigenous communities have different values and beliefs when it comes to how the land and environment should be understood and cared for. Thus, finding ways to meaningfully engage indigenous communities in land-use, natural resource, and community planning processes is particularly challenging. Before commencing with a discussion on indigenous peoples and land-use and natural resource planning, it is first important to define what exactly is meant by "indigenous".

In order to delve into the theoretical and historical discourse on indigenous peoples and land-use planning, it is important to establish whom exactly "indigenous" people are, and why their experiences have varied so greatly when it comes to the environmental planning process. While there is much theoretical debate as to what constitutes being "indigenous", the United Nations has developed an operational definition. The United Nations defines indigenous peoples as follows:

> Indigenous communities, peoples and nations are those which, having a historical
> continuity with pre-invasion and pre-colonial societies that developed on their
> territories, consider themselves distinct from other sectors of the societies now
> prevailing in those territories, or parts of them.[1]

Indigenous people throughout the world include the Australian Aborigines, the Maasai, the Maori, Maya, the Mbuti, the Mohawk and the Yanonami (Thornberry, 2002). The World's indigenous people are not an insignificant population, despite attempts by some to create that impression. There are believed to be an estimated 200 million indigenous people in the world, totaling approximately 4% of the global population (Thornberry, 2002, p.16). However, this number may be an underestimation. While methods of counting indigenous people vary from

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[1] The Daily Star http://www.thedailystar.net/law/2005/08/02/campaign.htm

country to country, some feel that undercounting may be an issue. Lower number counts by nations may be an attempt to marginalize indigenous people and their demands for assistance, rights, and reparations (Thornberry, 2002). Not surprisingly, when talking about the experience of indigenous peoples internationally, we are talking about a highly marginalized group of people.

Although relatively small proportionally to the rest of the post-industrialized world population, indigenous communities, including Native American tribes, Native Hawaiians, The First Nation of Canada, the Maori of New Zealand, and the Australia Aborigines have long ancestral ties to the land, and a long history of alienation from that land due to colonization. Many aspects of the lives and social relations of indigenous peoples are embedded in the land. Spirituality, community, history, and subsistence for indigenous people are all tied to the land (Susskind and Anguelovski, 2008; Burton, 2002). However, colonization resulted in indigenous peoples being displaced from their sacred land.

Much of the alienation of indigenous peoples from their land is due to what was known as the "frontier mentality" of the colonizers. Early settlers held little regard for the pre-existing indigenous populations because they were seeking to remove or conquer them (Evans, 2004). The European settlers and colonizers paid little respect to the cultures, institutions, and structures of the indigenous peoples. Pre-existing laws and customs were not recognized due to the notion that the indigenous land was not developed agriculturally (i.e. terra nullius) (Evans, 2004). Land unappropriated by agriculture was referred to as terra nullius (Pocock, 2000). In other words, terra nullius is unowned and unmanaged land, or more specifically, owned and managed in the traditional Western sense. Ignoring the holistic and less invasive efforts by indigenous peoples to modify and preserve the land, early colonizers defined indigenous lands and wilderness as purely

21

the product of biophysical processes (Ross and Pickering, 2002). As a result, the concept of terra nullius basically removed (or rather it was the justification for the removal of) any potential legal claims that the indigenous peoples in Australia, Hawaii, and to a lesser extent the North American mainland, could make regarding land they held culturally and spiritually sacred. Along with terra nullius, the idea of property rights was another justification used by settlers to remove land from indigenous people. The Western concept of land as property came in direct conflict with indigenous beliefs and attitudes about the land and the environment in general.

The Lockean and capitalist ethos of land management that views land as private property has been a critical component in alienating indigenous peoples from their land. Indigenous peoples, whether it is Native Hawaiians, First Nation, or Australian Aborigines, do not believe that the land is something that can be owned, sold, or traded (Susskind and Anguelovski, 2008; Burton, 2002). The colonizers exploited this fact to their advantage. For instance, colonizers arriving from the United States and Europe worked quickly to institute private property in Hawaii in order to separate Hawaiians from their land base (Susskind and Anguelovski, 2008). However, not believing in land as private property did not mean that indigenous people did not have systems of governance for the land. Nevertheless, colonial treaty agreements in the United States, Hawaii, Australia, and throughout the world ignored pre-colonial indigenous governance structures (Haveman, 1999; Trask, 1993). The only exception might be New Zealand, where the military power of the Maori resulted in a relatively favorable agreement when it came to land rights known as the Treaty of Waitangi (Walker, 1999). Despite a few exceptions, due to terra nullius, private property, different beliefs about the land, and treaty agreements, indigenous peoples around the world have been essentially robbed of their land rights.

Having little to no legal rights or title to the land has been and continues to be an issue of concern for indigenous peoples. Property rights are the basis by which land-use management is handled in the United States and in most Western capitalist democracies. The land-use policy, planning, and management of tribal and indigenous lands often involve having to negotiate, mediate, and adjudicate between divergent values, beliefs, and interests. Although traditional planning assumes that the process is best managed through the use of "objective" and "value-neutral" criteria, land use management is highly politicized with many different competing values and beliefs.

Value-neutrality in policy and planning is not feasible, and what is or is not "objective" is highly debatable. It is critical that planners and policymakers understand that the land-use decision-making process is a value management process (Davy, 2012). Not all people view, understand, and value the land and the environment in the same manner. Most notably, spirituality, which is the guiding principle for how indigenous peoples want to care for the land (Burton, 2002; Camacho, 1998), and utilitarianism/capitalism, which is often how land-use planning decisions are made (Beatley, 1994), come into direct conflict. If the land use management and policy process is going to become a complete process, it needs to acknowledge and respect cultural, philosophical, epistemological, and spiritual differences, as opposed to rigidly adhering to a process that relies on assumptions that automatically bias the process in favor of market and economically based rationale (Davy, 2012; Burton, 2002; Camacho, 1998). Arguably, the ongoing conflicts in Hawaii and the U.S. mainland over commercial development, pipelines, telescopes, and military testing on sacred land would be different with a more comprehensive, inclusive, and multicultural planning approach.

The land use and natural resource planning process impacts multitudes of peoples and values, and thus should be mindful of these differences and diversity. Indigenous people all over the world, whether they are Navajo, Maori, or the indigenous Taiwanese, have a spiritual connection with nature. They value the land and environment beyond its market value. Many indigenous peoples origin traditions stem from the belief that they were born of the Earth (Burton, 2002). Religion and cultural traditions for indigenous people are often tied to the land. However, developers and capitalist feel that nature is a commodity that one holds title rights to that can be sold, traded, and bought (Clapp and Dauvergne, 2005). The developer's goal is to maximize the resource potential of the land through a variety of commercial uses. However, "the highest market value is not always a reliable indicator of the best use of land" (Davy, 2012, p. 89). Unfortunately, there is no true free market or fair competition when it comes to different values and beliefs in the land and natural resource planning process. The competitive land use planning process is far from equitable. Traditionally, market-based and development interests win out due in great part to the process prioritizing rational and utilitarian planning principles over other values and beliefs, as well as a discrepancy in resources and information that favors developers (Camacho, 1998; Beatley, 1994). Thus, the planning process, which strives to be objective, is far from equitable, inclusive, multicultural, or just.

Rather than continuously rely on repeatable formulas and mechanisms based on rigid assumptions, different theorists contend that the land management and policy process needs to acknowledge that it is making hard value-based decisions. Contrary to traditional assumptions about land-use and natural resource planning, the process is not value-neutral (Davy, 2012). The land management and planning process often involves mediating and arbitrating between vastly different and conflicting interests (Burton, 2002). Thus, it is important that the process include as

many values and voices as possible on a level playing field. Inclusiveness and diversity, particularly that of disenfranchised groups, is critical to ensuring that policy, planning, and land management processes are democratic and true to the spirit of a civil society (Davy, 2012; Burton, 2002; Lijphart, 1999; Camacho, 1998). Perhaps nowhere are the challenges to diversity and inclusion more apparent than the management of indigenous land and natural resources.

E. Examples of Indigenous Land and Natural Resource Planning

Land and natural resource planning, particularly culturally and spiritually sacred land and water, poses a unique challenge due to conflicting beliefs, goals, and epistemologies about the land and environment. As discussed, the utilitarian capitalist approach to land use planning, common in most Western democracies, comes in direct conflict with indigenous views about caring for the land. More so than any other group, indigenous peoples such as Native Hawaiians, the Maori, and the First Nation of Canada are at odds with the institutional mechanisms by which land is managed within the Western democratic and capitalist context (Susskind and Anguelovski, 2008; Burton, 2002; Haveman, 1999; Trask, 1993). Furthermore, although comparing histories of oppression is not a desirable or fruitful endeavor, it can be argued that the land-use planning and management process has alienated few communities more than indigenous peoples. From resorts built on sacred land to oil pipelines polluting sacred water, indigenous peoples have borne the brunt of many land planning and development decisions. Thus, the land-use planning and management of indigenous and tribal land, especially culturally and spiritually sacred land, makes for strong tests cases and challenges for progressive, inclusive, multicultural, and collaborative planning principles.

Despite differing beliefs and values about the land and the environment, and centuries of contested history, there are a few examples of "successful" indigenous land and natural resource

planning. Referring to any situation where a community has been displaced and removed from their land as "successful" is naturally problematic. Most Native American and Native Hawaiian activists would most likely not characterize the planning and management of sacred land and water by private interests a "success". Nevertheless, there are degrees of success when comparing across institutional and national contexts, which provide for some empirical and theoretical insight. For instance, in the United States, the National Park Service (NPS) has a relatively respectable track record working with Native American tribes and Native Hawaiian community groups. The collaborative efforts undertaken by the NPS are especially notable when compared to other federal agencies, such as the Department of Defense (DOD) who, for the most part, have had difficult and strained relationships with indigenous communities (Burton, 2002). Thus, much of the past work in collaborative approaches to indigenous land and natural resource planning has focused on the NPS and their efforts to work with indigenous and native communities.

1. National Park Service (NPS) and Collaborative Management and Planning

Rather than employ a winner-take-all approach to balancing different interests, the National Park Service (NPS) has emphasized negotiation, cooperation, and collaboration. For instance, the NPS has been able to successfully balance the recreational needs of climbers/hikers, and the cultural and spiritual needs of the Kiowa Tribe, concerning Bears Lodge (also known as Devil's Tower) in Wyoming. On the Big Island of Hawaii, the NPS has worked closely with Native Hawaiians to protect access to Kilauea for ceremonial rituals for the goddess Pele (Burton, 2002). Thus, the NPS stands as an exemplar for collaborative and multicultural land-use planning and management.

a. Kilauea

The collaborative working relationship between the National Park Service (NPS) and Native Hawaiian community groups and activists concerning access to Kilauea is often cited as an example of multicultural and collaborative land use planning in praxis. Despite widely varied interests that view Kilauea as everything from a recreational park to a religious site, the NPS has been able to maintain relatively positive working relationships with these various groups and communities (Burton, 2002). A significant aspect to these positive relationships can be tied to context. The working relationships and processes surrounding Kilauea grow out of its status as a National Park.

Much of Kilauea's unique status can be attributed to an ongoing history where different parties have worked to give the volcano and sacred site its special status. Kilauea is part of the Hawaii Volcanoes National Park, which was established in 1916 after concerted effort by conservationists Lorrin Thurston and Thomas A. Jaggar (National Park Service, 2013). In 1980, the United Nations Educational, Scientific, and Cultural Organization (UNESCO), named the Hawaii Volcanoes National Park, including Kilauea, an International Biosphere Reserve because on the park's natural and scientific value. Already an important cultural and spiritual site for Native Hawaiians, Kilauea was also acknowledged for its scientific and environmental significance. In 1982, UNESCO named Hawai'i Volcanoes National Park a World Heritage Site. World Heritage Sites are recognized and protected for their outstanding natural, historical, and cultural value. The idea of World Heritage Sites evolved from the concept that certain natural and cultural sites have "universal value" for all people (National Park Service, 2013). Thus, it is this understanding of its universal value across different cultures that provides the context in which the NPS manages and cares for Kilauea and the Hawaii Volcanoes National Park.

As a National Park, the NPS is tasked with negotiating between different interests concerning Kilauea. Rather than take a unilateral and hierarchical approach, the NPS actively works with the community to ensure that the multiple interests are engaged and that their wishes are considered in the management and care of Kilauea (Burton, 2002). Maintaining positive working relationships is especially important when one understands the cultural and spiritual significance of Kilauea to the Native Hawaiian people.

To Native Hawaiians, Kilauea is a sacred site. Native Hawaiians believe that Kilauea is where Pele, the Hawaiian goddess of volcanoes, resides. The practice of leaving offerings for Pele has been ongoing since the first Hawaiians arrived on the islands (Hawaiian Volcanoes National Park, 2013). As part of the ongoing collaborative working relationship established between the Native Hawaiian community and the NPS, Native Hawaiians are granted access to Kilauea to make religious offerings to Pele (Burton, 2002). Part of this collaboration includes identifying what items are traditionally left for spiritual and cultural purposes. The NPS and Native Hawaiian community members are tasked with distinguishing religious offerings from items that tourist leave behind (Burton, 2002). Maintaining the distinction between cultural and spiritual offerings versus random items left behind by tourists on Kilauea is critical given the many people who visit the volcano on a daily basis.

The NPS must constantly negotiate between different interests when it comes to Kilauea. Along with being a sacred site for Native Hawaiians, Kilauea is also a popular destination for tourists, hikers, and other outdoor enthusiasts. Moreover, Kilauea is still an active volcano, making it a popular research site for geologists. Kilauea is important to different people with different interests. Despite multiple and sometimes conflicting uses, the NPS has maintained a

relatively positive working relationship between the cultural, spiritual, recreational, and research interests.

b. Bear's Lodge/Devil's Tower in Wyoming

Going back to the late 90s, the National Park Service (NPS) in Wyoming has maintained a collaborative working relationship with the local plains Indians, specifically the Kiowa tribe, and local hikers and campers. Similar to the situation in Kilauea, the NPS was tasked to mediate and negotiate between recreational and cultural/spiritual interests. In particular, the working relationship between the Wyoming NPS and the local plains Indians was initiated because of a conflict over different uses of Bear's Lodge/Devil's Tower. Although Bear's Lodge/Devil's Tower is most famous to non-locals for its appearance in the 70s science fiction thriller, *Close Encounters of the Third Kind*, it also plays an important role in the everyday lives of the local Kiowa tribe and local outdoor enthusiasts. Hikers and campers use Devil's Tower for recreational purposes, whereas Bear's Lodge also plays a critical role in the religious and cultural practices of the Kiowa tribe (Burton, 2002). Despite these opposing interests, what could have been a tense and combative situation has turned into a positive example of equitable, collaborative, and deliberative planning practices.

Rather than take a conflict-based winner-take-all approach, the NPS, the Kiowa tribe, and the hikers/campers decided to work together. From these initial discussions, the Place and Native Voice (PNV) program was established (Place and Native Voice, 2013). Lloyd Burton, director of the environmental law and policy program at the University of Colorado, Denver played an instrumental role in establishing the PNV. The purpose of the PNV program is to train Native college students to act as cultural interpretive resources for the national parks. Working alongside the Kiowa tribe and the NPS, the PNV Program has aided in maintaining collaborative

working relationships concerning the day-to-day usage of Bear's Lodge, as well as other culturally and spiritually sacred places.

c. The National Parks and the National Park Service collaborative by nature?

It can be argued that the National Parks and the National Park Service (NPS) are outliers in the world of indigenous land use planning in the United States. The NPS is a collaborative agency managing land with negotiable interests. A significant part of the NPS story is that for various reasons, as an institution, the NPS employs a more collaborative and diverse planning culture. Most people who go to work for the NPS are usually going to be conservationists or environmentalists. Thus, the NPS is generally an agency with a deliberative and collaborative culture, staffed by open-minded, inclusive, and multicultural people. However, along with the culture of the NPS, the type of land managed by the NPS, the National Parks, has its own unique characteristics.

Another part of NPS's success in encouraging communication and collaboration concerning land management is attributable to the nature of the land-use being negotiated. Coordinating the interests and needs of recreational park goers (e.g. hikers, campers) and Native American or Native Hawaiian tribes is not as complex as balancing between cultural uses and resource extractive uses, for instance. Hikers and indigenous groups both share an affinity, albeit to varying and qualitatively different degrees, for the land, whereas business interests only see the land as a resource and commodity (Burton, 2002). Moreover, hikers, campers, and other recreational users are not looking to build permanent structures (e.g. resorts, telescopes, oil pipelines) on Native land. Therefore, if the culturally and spiritually land were a valuable asset to conflicting interests (e.g. military, development) who want to build on and use the land and environment as an asset, it would be much harder to bring such divergent interests together to

communicate and negotiate. The telescopes on Mauna Kea, the military tests throughout Polynesia, the Dakota Access Pipeline, and ongoing commercial development on indigenous land are examples of other types of land use that come in direct conflict with indigenous beliefs. One must remember the impact of different historical, political, and cultural contextual factors when observing and analyzing how and why collaborative and multicultural planning practices are enacted in some cases but not others. The NPS combined with National Park land make for a unique example within the U.S. and the world.

2. Indigenous Land Management in Other Crown Colonies

Along with studying past examples of indigenous land and natural resource management and planning in the United States, it is also informative to look at examples outside of the United States. Different national, political, and historical contexts have led to different planning outcomes for indigenous peoples. However, it is important to acknowledge that some international examples have more in common with the United States than others. While all international case studies offer insight, ultimately, past case studies and examples in former Crown Colonies offer the most transferable information into how indigenous land use planning has been and is still enacted in the United States. As former British colonies, the United States, Canada, Australia, and New Zealand share many similarities (e.g. Lockean Liberal traditions, democracy, descendants of Westminster parliamentarian governance, utilitarianism, capitalism, colonialism, English/Anglo culture, Judeo-Christian Religions) (Haveman, 1999). Whereas, international case studies that go beyond this scope tend to differ too much in terms of historical and cultural context to offer many transferable observations or lessons.

Although other nations such as South Africa, Taiwan, Japan, Mexico, Peru, and Tahiti may have similarly difficult histories with indigenous communities as the United States, these

cases are different enough in that they introduce other cultural and historical factors that further complicate the analysis. Most notably, these other nations do not trace their origins to the British Crown or the Church of England. As a result, there are many fundamental societal, cultural, historical, and political differences that transcend the cultures and processes of their respective policy and planning agencies. For instance, the British Empire's standard operating procedure regarding establishing treaties and relocating indigenous communities differed greatly from the Japanese imperial government's policies regarding the indigenous Ainu population (Haveman, 1999; Siddle, 1996). Furthermore, Japanese religious (e.g. Shintoism, one of the major religions in Japan, overlaps with animistic Ainu beliefs) and cultural practices, and political philosophies, differ significantly from British religious (e.g. Protestantism) and cultural practices, and political philosophies (Burton, 2002). Thus, Japan and other non-Crown Colonies are likely too contextually different to facilitate practical case study comparisons.

All of the former British Crown Colonies have long complicated histories (e.g. stolen land and natural resources, displacement, relocation) with their respective indigenous populations. However, despite some cultural (e.g. Christianity, English language) and political (e.g. Westminster model) similarities, each of the Crown Colonies has treated their respective indigenous populations qualitatively differently. New Zealand has maintained relatively positive relations with their native peoples, the Maori. In contrast, Australia has had and continues to have difficult relations with its indigenous people, the Aborigines. Interestingly, although Canada historically has had tensions with the First Nation people, their relationships improved dramatically in the later 20th century (Haveman, 1999). Thus, even as former Crown Colonies, there is significant variation from country to country.

Some of these differences in outcomes and relations are due to historical and cultural factors unique to each nation. For instance, due to a combination of historical, cultural, political, and legal factors, land use planning in New Zealand is much more inclusive and respectful of Maori needs and interests than is the case for Aborigines in relatively nearby Australia (Haveman, 1999). The differences can be attributed to everything from the role of the Church of England, timing (New Zealand was colonized after Australia), to the military strength of the Maori at the time of colonization (Haveman, 1999). Thus, while the former Crown Colonies share many similarities, which provide some grounding for analytical comparisons, there are still vast differences in terms of historical events, culture, and politics that provide critical insight in how indigenous land and natural resource planning is, can, and possibly should be conducted.

a. Australia

Australia and the lack of representation of Aborigine interests in land-use policy and planning is often cited as one of the more negative examples of the exclusion of indigenous peoples in government, politics, policy, and planning. Much of this is attributed to a combination of historical factors and the nomadic nature of the Aborigine at the time of colonization (Haveman, 1999). As far as the Crown Colonies are concerned, unique to Australia is the history of treaties, or the lack thereof. Unlike their counterparts in New Zealand and the U.S., Australian Aborigines cannot appeal to treaties made with the British Crown before the confederations of colonies became self-governing and independent. Nor can Aborigines appeal to further treaties with state and federal governments made during and after this process (Pocock, 2000, p.25). The absences of early established treaties compounds an even larger problem for Australian Aborigines, and that is the lack of recognition of any Aboriginal land rights claims.

In Australia, terra nullius arguments were used by the earliest Australian settlers and are still used as justification against Aboriginal land claims today. Land unappropriated by agriculture is referred to as terra nullius (Pocock, 2000, p.27). Throughout most of Europe and the Americas, particularly the former Crown Colonies, agriculture was the basis used for the establishment of early property rights. According to this philosophy, the time at which human communities became sedentary upon the land by tilling and rendering it productive established property rights, and made property the basis of how society was organized (Pocock, 2000, p.26). Based on terra nullius logic, hunter-gathers (e.g. the Australian Aborigines) cannot claim property rights/title to the land. Instead, hunter-gatherer people might have property in what they have found or captured, but not in the land over which they have traveled (Pocock, 2000, p.27). Thus, according to the frontier mentality, the early Australian Aborigine, whose normal condition was held to be one of a walkabout (i.e. hunter-gatherer), did not have claim to the land because it was terra nullius (i.e. unappropriated by agriculture).

Terra nullius arguments basically removed (or rather it was the justification for the removal of) any potential legal claims that the Australian Aborigines could make regarding land they held culturally and spiritually sacred. In 1788, the British Crown claimed sovereignty over Australia under the auspices of the doctrine of terra nullius (Jonas, 2001, p.34). Based on terra nullius, the Crown did not recognize the customs and traditions of the Aborigines before colonization. The indeterminacy of the legal status of Aboriginal people would give way to colonial as well as imperial endorsement of a unitary system of law.

The European settlers and their descendants did not respect the land rights and cultural claims of the Australian Aborigine. Based on the colonial reiteration that, under terra nullius, pre-existing laws would not be recognized, British law was enshrined as exclusively

authoritative, even in inter se matters (Evans, 2004, p.76). Moreover, terra nullius was used to justify aggressive acts on the part of the early Australian settlers. By "accepting both their moral and legal right to occupy the land, many frontiersmen were equally convinced that the Aborigines were the first aggressors, that they had provoked conflict when all the settlers wanted was to peacefully occupy empty and unused land" (Reynolds, 1999, p.132). Thus, the combination of terra nullius as prevailing thought, coupled with the frontiersmen attitude, led to the systematic displacement and disenfranchisement of the Aborigines. It is because of the almost complete disenfranchisement of Aborigines that Australia is considered one of the worst cases when it comes to indigenous land and natural resource planning.

From the forced relocation of aborigine children to re-education schools, to the recent cuts in federal funding for Aboriginal organizations and communities, Australia has a long and ongoing history of anti-Aborigine policy. However, the Australian experience is not the boilerplate template for all Crown Colonies. In fact, one of Australia's closest neighbors had a qualitatively different colonial experience. The early and present day experience of the Australian Aborigine stands in stark contrast to the experience of the Maori in New Zealand.

b. New Zealand

New Zealand is often cited as a positive example when it comes to the inclusion of indigenous peoples in government, politics, and policy. Compared to the United States, Canada, and Australia, the Maori are well represented in the various policy and planning processes, including land and natural resource management. Much of this is attributed to a combination of historical factors, including the military strength of the Maori at the time of colonization and the role of the Church of England (Haveman, 1999). Despite their proximity, due to key historic

35

events and other contextual factors, Australia and New Zealand are on the opposite end of the spectrum when it comes to indigenous peoples affairs, policy, and planning.

One critical difference between the colonization of Australia and New Zealand was timing. The abuse of terra nullius in Australia did not go without its controversies back in England. Many in Britain opposed the treatment of the Aborigines and contested the idea that Australia was terra nullius. In particular, humanitarians, such as Lord Gleneg, the Colonial Secretary of Britain at the time, attempted to oppose the policy of terra nullius, particularly in the Southern Australian region, because of the consequences it had on Aborigines in the frontier. However, Lord Gleneg's efforts in Australia were in vain. For the most part, the colonists in Australia ignored the efforts of Gleneg and other humanitarians (Reynolds, 1999, p.135). Part of the reason for this was that Gleneg did not have a clear-cut plan when Australia was being colonized.

New Zealand being colonized after Australia allowed Gleneg and other humanitarians to strategize. By the time Gleneg had realized what was going wrong in Australia it was too late. However, Gleneg learned from the Australian experience. Gleneg and the Evangelicals would later apply the lessons they learned in Australia to New Zealand. They were determined to prevent what happened in Australia from happening in New Zealand (Sorrenson, 1999, p.162). Gleneg and other advocates now had a plan to prevent the policy of terra nullius in New Zealand. Thus, the Maori of New Zealand benefited somewhat from being colonized after Australia. However, the Maori were not passive beneficiaries. Rather, the Maori played an active role in ensuring that their colonial experience would be qualitatively better than the Australian Aborigine. Along with the support of Gleneg and other British humanitarians, the organized and

militarized social structure of the Maori would make terra nullius and other colonial policies less likely to gain footing in New Zealand.

Much of the Maori's present day access to government, policy, and planning, especially in comparison to the Australian Aborigine, goes back to the initial treaties that the Maori negotiated with the earliest English settlers. Perhaps the most important treaty was the Treaty of Waitangi, which was drawn up between representatives of the Crown and the rangatira (Maori chiefs). The Treaty of Waitangi was signed on or after February 6, 1840 by the British Crown, represented by Captain Hobson, and approximately 540 Maori rangatira representing different tribal communities (Williams, 2004, p.163). Rather then being a land transfer deed of the kind familiar in 19th Century North America, the Treaty of Waitangi was a simple framework document designed to address the basic issues important to the Crown and the Maori at that time. Most importantly, it was an exchange of promises and not a mere declaration of rights (Williams, 2004, pp.163-164). The Treaty of Waitangi stated that the individual Maori tribes should have undisturbed possession of their lands, forests, fisheries and other taonga (treasures). Although the Treaty is not enforceable by law, it provides a framework by which legal, political, and cultural decisions are made in New Zealand even today.

The Treaty of Waitangi provides a unique bargaining point for Maori wishing to address issues of land rights claims, cultural rights, and self-determination. Indigenous peoples in the U.S. and Australia do not have this level of legal leverage. Moreover, the Maori further benefit from how the New Zealand government is structured. Unlike the U.S. and Australia, New Zealand is a unitary state (as opposed to a federation or confederation of states) established by the Crown. Rather than having to negotiate with both state/regional and federal/national level entities as is the case in the U.S. and Australia, the Maori deal exclusively with the national

government of New Zealand. Thus, the Maori are aided further in their negotiations with the government due to the fact that they are able to use the Treaty of Waitangi to deal with a single unitary actor, the Crown of New Zealand, as opposed to overlapping often-conflicting jurisdictions. While the Treaty is not used to delegitimize the sovereignty of New Zealand, it is used as a reminder of the conditionality of New Zealand's sovereignty over the Maori people and put into mind the claims the Treaty is urgently concerned to attend (Pocock, 2000, p.26). The Treaty has played, and will continue to play, a role in the indigenous rights of the Maori people, including land and cultural rights.

One cannot discuss the importance of the Treaty of Waitangi without acknowledging another critical historical factor, the military strength and governmental structure of the Maori prior to European colonization. The military power and organized governance of Maori society at the time of colonization played a critical role in the establishment of the Treaty of Waitangi and the Treaty being relatively favorable for the Maori people. The Treaty was drawn up and signed before the massive settlement of Aotearoa/New Zealand by British, Irish, and other European colonists (Pocock, 2000, p.25). At the time of the Treaty, the Maori tribes were well armed, and the Maori outnumbered the Pakeha (settlers) thirty-to-one (Walker, 1999, p.113). The Maori military posed a formidable challenge to the European colonists and the Maori people would not back down. Moreover, besides arms and numbers, the Maori also had already unified under a complex government structure of settlements with developed agriculture, craftsmanship, and a distinct social order/hierarchy.

Even if the European settlers had wanted to claim terra nullius in New Zealand, they could not because of the extent of the agriculture and government developed by the Maori. This last point is critical particularly because the debate over terra nullius in Australia was still fresh

in the minds of many settlers and those who were sympathetic to indigenous rights back in Britain. The European settlers faced significant opposition in New Zealand by the Maori military and back at home by Gleneg and the humanitarians. Thus, the qualitatively better conditions for the Maori in New Zealand compared to the Native and indigenous experiences in Australia, U.S., and Canada were due to different co-mingling factors.

c. Canada

For most of Canada's history, the experience of indigenous land use planning has not been positive, inclusive, or collaborative. In comparison to New Zealand and even the United States, from the time of colonization, relations between the First Nation people and the Canadian government have been negative. Matters only improved after the Canadian government began to place greater emphasis on indigenous peoples self-determination in the 1980s and 1990s. The critical turning point were three monumental decisions by the Supreme Court of Canada, which were found in favor of First Nation claims. As a result, the Canadian government was compelled to emphasize a negotiated approach to future aboriginal land claims rather than take a combative or litigious approach (Aboriginal Affairs and Northern Development Canada, 2013). Thus, in Canada, indigenous land use planning only changed after the First Nation had successfully filed legal claims against the Canadian government in the Canadian Supreme Court. However, although negotiations and collaboration between the First Nation people and the Canadian government have improved, there are still areas of concern in Canadian indigenous land and natural resource planning.

Despite improvements, Canada still faces a number of questions and concerns when it comes to indigenous land and natural resource planning. In recent years, land and natural resource planning and management has become further complicated by petroleum companies

looking to go into the northern territories of Canada, historically considered the traditional

domain of the First Nations, to extract oil and natural gas. Thus, Canada must balance economic

interests with social and environmental justice concerns. An imbalance in favor of economic

interests and utilitarian principles in land and natural resource policy and planning processes can

lead to disastrous results, as it has been in the past in Canada and the United States.

F. Ethnical and Moral Concerns: Why we need alternatives to utilitarian planning

One lesson that can be learned from how land and natural resource planning is enacted in

the United States, and in other similar contexts (i.e. former Crown Colonies), is the importance

of diverse, inclusive, deliberative, and collaborative processes. According to deliberative,

collaborative, inclusive, multicultural, and progressive theorists, critical to ensuring that the land-

use, natural resource, and community planning processes are fair and just is ensuring that all

stakeholders and viewpoints are included. Unfortunately, minority communities, including

indigenous populations, do not participate in the policy, planning, and land management

processes (Banduci, et al., 2004; Camacho, 1998). Furthermore, planning agencies and officials

often disregard the views and desires of minority communities, especially indigenous peoples, as

irrational, outdated, and impractical (Susskind and Anguelovski, 2008; Burton, 2002). Finally,

the liberal tradition and obsession with individual property, individual rights, and individual

freedoms makes it difficult to create any sense of community (Macphearson, 1962). Different

theorists contend that mainstream land use planning and policy is flawed in that traditional

rationalist, utilitarian, and individualistic approaches to policy and planning ignore a broader

societal imperative.

Besides relying on utility maximization and analysis, alternative planning theorists

emphasize that the process should also respect and acknowledge the historic and ongoing

40

alienation of indigenous peoples and other disenfranchised communities. The maintenance of a fair and just democratic society requires more than just maximizing economic capital (e.g. the commercial value of land), but also remembering the importance of social (e.g. community ties through shared spiritual beliefs) and moral capital (e.g. protecting the views and beliefs of the minority from the tyranny of the majority) (Stokols, Lejano, and Hipp, 2011). Deliberative, collaborative, multicultural and inclusive approaches to policy and planning can address these ethical and moral concerns. Moreover, planning theorists contend that policymakers and planners need to understand that addressing these broader societal concerns is necessary and imperative.

The John Rawls position on land use seeks to improve the conditions of the least-advantaged members of society. Ethical land use is not merely neutral from the perspective of distributive justice, but rather seeks to promote and advance it (Beatley, 1994). Thus, it is not enough to rely on existing majoritarian and utilitarian policy and planning processes. According to Rawls, and multicultural, deliberative, inclusive, collaborative, and progressive planning theorists, land-use policy and planning should actively seek to resolve ethnical and moral concerns, and build a greater sense of community. A significant part of this charge will require getting the disengaged (e.g. minorities, women, the poor) engaged in the policymaking and planning processes (Camacho, 1998). Furthermore, rather than rely almost exclusively on traditional rationalist and positivist approaches towards to planning, it is important to acknowledge that we live in a diverse world where there are few universalities or one-size-fits-all policies (Burayidi, 2000; Beatley, 1994; Young, 1990). Increasingly, policy and planning theory has addressed the importance of discourse, diversity, inclusion, collaboration and empowerment.

G. Alternatives to Utilitarian and Rational Planning

There are alternatives to the traditional majoritarian and utilitarian planning paradigms. Alternative theories suggest different ways to make the policy and planning processes more equitable. Rather than assume that majority interests are the best for all, that the process is fair and accessible, and that competition is the best way to determine policy, other theoretical approaches emphasize diversity, discourse, inclusion, collaboration, and activism enacted on the community level. Moreover, these alternative planning theories also define being a "planner" as something different than the traditional detached analyst.

Table 1: Equitable Planning Theories

Planning Theory	Brief Description	How it is Enacted
Multicultural Planning (e.g. Karen Umemoto, Seyla Benhabib)	Emphasizes the importance of cultural and epistemological diversity in the planning process	Planners acting as interpreters play a critical role.
Deliberative and Discursive Democracy (e.g. John Dryzek, Iris Marion Young, Charles Hoch)	Aims to make the policy process more equitable via increased discourse and deliberation	Usually through the use of public forums.
Inclusive Processes and Planning (e.g. Martha Feldman, Kathryn Quick)	Stresses the importance of ongoing processes that build community, versus one-shot participation	Not specified (i.e. can be community-based or planner initiated), but focuses less on institutions and forums, and more on innovative practices
Collaborative Planning (e.g. Patsy Healey, Lawrence Susskind, Judith Innes, David Booher)	Strives to make the planning process more consensus-based, and less competitive	Planners often act as facilitators and mediators. Institutions and organizations can also implement collaborative practices.
Activist/Progressive Planning (e.g. John Forester, Paul Davidoff, Norm Krumholz)	Emphasizes the importance of empowerment and activism.	Planners play a critical role as activists who seek to address issues of power imbalances and inequality in the planning process.

Source: Analysis of planning, policy, and political scientist theorists by Hiroshi John Ishikawa.

1. Multicultural Planning

Multicultural planning theorists stress the importance of respecting cultural and epistemological diversity. According to multicultural theorists, the traditional framework for land-use policy and planning must become more flexible and expansive in order to better incorporate diverse beliefs, attitudes, and interests. In dealing with a multicultural world with different beliefs and interests, it is especially important to remember cultural differences (e.g. cultural practices, language) when planning for different communities who do not fit into the mainstream framework (Umemoto, 2001). The traditional planning processes oftentimes reduce and oversimplify difference.

Rather than fear racial, ethnic, epistemological, and philosophical difference, multicultural theorists emphasize that planning should embrace difference and build new methods appreciative of diversity. While some may see this new approach as a threat to the status quo of planning, this new path will ultimately provide for planning's growth, evolution, and enhanced relevance in this century (Bollens, 2002). Multicultural theorists, such as Michael Burayidi, contend that planning needs to become multicultural. Urban planning can no longer rely on supposedly objective, rational, and utilitarian methods that design and implement generic one-size-fit all solutions (Burayidi, 2000). Multicultural and other alternative planning theorists emphasize that the world is much more diverse and complicated than assumed by traditional planning practices. Moreover, in addition to different ways of thinking and knowing, multicultural theorists contend that planning must explore and embrace new and alternative methods and practices. According to multicultural theorists, diversity of thoughts and ideas in our political discourse, and diversity of methods in our planning practices, is critical for ensuring effective policy and planning (Benhabib, 2002; Umemoto, 2001; Burayidi, 2000). In contrast to

traditional resource extractive, utilitarian, or capitalist approaches to land and resource management, there has been an emergence of alternative ways of understanding and caring for our land.

Some planning theorists emphasize the benefits of incorporating a greater array of beliefs, values, ideas, and methods into the process. For instance, the land and natural resource planning process may benefit from incorporating indigenous land and water stewardship practices. Whereas the conventional resource extractive approach to land management is categorized and compartmentalized, indigenous knowledge is holistic and set within a broader ecosystems framework (Ross and Pickering, 2002). Indigenous peoples had been enacting sustainable land and water management practices long before the arrival of European colonists (Frantz, 2012; Ross and Pickering, 2002). Much of this difference in natural resource management likely goes back to a vastly different understanding of the environment. The scientific and resource extractive approaches to land and natural resource planning ignore non-quantifiable attributes, such as the spiritual and cultural value of the land. Conversely, spirituality and reverence is why indigenous peoples see themselves as stewards of the land and environment, as opposed to being owners of it (Clapp and Dauvergne, 2005; Burton, 2002; Camacho, 1998). One can conclude that people are more likely to respect, conserve, preserve, and protect something that they believe to be sacred, as opposed to something that is considered to be property or a resource.

Indigenous knowledge and practices is just one of many reasons why multicultural and other alternative planning theorists contend that the land and natural resource policy and planning process would benefit greatly by incorporating a broader understanding of the environment. Many of the current processes have led to environmental degradation, resource

depletion, and environmental and social injustice (Bullard and Johnson, 2000; and Camacho, 1998). However, the existing land and natural resource planning processes are institutionalized and entrenched. Fundamentally changing rigid and hierarchical structures is not easy (Camacho, 1998; Young, 1990). This then begs the question, how and can changes be enacted in the traditional land and natural resource policy and planning processes?

According to multicultural theorists, planners can facilitate a policy and planning process that understands and accommodates cultural, as well as epistemological, diversity. Thus, rather than play the traditional role of detached analyst, planners can play an active role in advancing inclusion and diversity in the planning process. In the face of multiple epistemologies, planners face two major problems; the reconciliation of epistemological differences between cultural groups, and enabling the planning process to accommodate these diverse epistemologies or ways of knowing (Umemoto, 2001). According to multicultural theorists, planners need to respect different histories, cultural repertoires and practices, norms, and language in order to ensure an inclusive, fair, and equitable process (Benhabib, 2002; Umemoto, 2001; Burayidi, 2000). Despite this difficult task, creating the foundation for social learning that emphasizes multiple epistemologies within planning processes is not an unrealistic goal (Umemoto, 2001). Multicultural planning theory suggests that there are tools and resources that planners can use to facilitate communication across cultural and epistemic boundaries, particularly on the local or community level.

According to some multicultural theorists, planners must first and foremost respect language differences. In terms of multicultural planning, "language difference" is not necessarily meant in the sense that we normally understand it, but rather language differences in terms of how words, sometimes the same exact words, are spoken and perceived differently by different

people (Umemoto, 2001). A significant part of this is code switching, or being able to speak in the "language" of different communities. These languages are deeply embedded within the communities, and are usually only spoken by members of that community (Umemoto, 2001). Therefore, not surprisingly, some theorists have noted that many planners are often not capable of speaking in these different "languages" due to not actually being from the neighborhood or community (Umemoto, 2001). As well intentioned as some planners may be, they may not speak nor understand the "language" of some disenfranchised communities.

According to multicultural planning theorists, in communities with strong cultural identities, practices, and protocols, one option is for planners to seek the aid of cultural interpreters who come from those specific communities. These cultural interpreters can serve as bridges to facilitate cross-cultural communication (Umemoto, 2001). Oftentimes, cultural translators are educated and engaged community members who have maintained connections to community organizations, social networks, and cultural practices (Umemoto, 2001). Despite having been educated and spent time outside of the community, these multicultural translators are still connected to their respective communities. Through these translators, planners are able to build trust. Trust is critical for building bridges across difference. The multicultural translators are able to build trust because they speak the "language" of multiple interests, and have credibility because they come from the community (Umemoto, 2001). Moreover, besides working for and with planners, many of these multicultural translators also play the role of planner if we expand our understanding of what it exactly means to be a "planner".

The land and natural resource planning process, particularly when it deals with issues of social and environmental justice, involves having to resolve many different political, social, and cultural aspects that go beyond simple analysis. Thus, in order to address these broader societal

ethical and moral concerns, it is important to broaden what exactly constitutes "planning" and who exactly are "planners". In other words, the multicultural translators, as well as the activists and leaders working on land, natural resource, and water policy in their respective communities, can also be considered "planners" working on "planning issues". Many theorists contend that planners and policymakers should ultimately trust the communities to empower and build themselves up (Umemoto, 2001; Camacho, 1998; Young, 1990; Arnstein, 1969). In order to empower disenfranchised communities in the planning process, it is important to understand that different people in these communities are often playing the role of policymakers and planners, regardless of whether or not they have the formal titles and positions. Rather than play the role of interventionist, sometimes planners have to allow the process to emerge from the ground up (Umemoto, 2001; Camacho, 1998; Young, 1990; Arnstein, 1969). Critical to multicultural planning is community-led planning and community empowerment.

Multicultural and other equitable planning theorists emphasize that the long term goal is for the disenfranchised communities to become empowered and eventually lead themselves. Community-led planning actively involves community members in the design and facilitation of community-based planning processes (Arnstein, 1969). This is critical because it is rare for traditional planning agencies to have staff that is culturally representative of the population it serves (Benhabib, 2002; Umemoto, 2001; Burayidi, 2000). Furthermore, it is also not uncommon for planners to be working with communities with whom they have little cultural familiarity (Umemoto, 2001). Thus, multicultural theorists emphasize that it is imperative for planners to identify and recruit residents who can connect with the different constituencies within a community. By working together, "planners and residents can codesign processes that are culturally appropriate and value cultural differences" (Umemoto 2001, pp.27-28). Rather than

merely including different communities into a symbolic process, the goal should be to have the various communities lead the process (Benhabib, 2002; Umemoto, 2001; Burayidi, 2000; Arnstein, 1969). However, enacting such a fundamentally different approach from traditional planning will not be without its challenges. Some theorists contend that these multicultural differences, including qualitatively and significantly different experiences and conditions, may be insurmountable (Burayidi, 2000). However, all hope is not lost.

Multicultural planning theorists emphasize the importance of discourse as a bridge between cultural and epistemological difference. Benhabib (2002) contends that the barrier between cultural difference and democracy is not insurmountable, but rather that open discourse and deliberative democracy in the public sphere will enable the cultural contestation necessary for the maintenance of a fair and open civil society. Somewhat similarly, Shmueli and Khamaisi (2011) suggest that diametrically opposed positions may be reconciled by developing planning options through open and fair discourse as opposed to imposing centrally developed plans. Critical to this discourse is that in addition to, or in lieu of, utilitarian planning, rationality, and majoritarian politics, all voices, including the disenfranchised and disengaged, are heard and that people are willing to work together (Shmueli and Khamaisi, 2011; Benhabib, 2002; Dryzek, 1990; Young, 1990). Thus, it is the emphasis on open and equal public discourse where multicultural planning theorists and deliberative democracy theorists overlap.

2. Deliberative Democracy

Communicative action and deliberative democratic theorists, such as Robert Bellah, Jurgen Habermas, and John Dryzek, emphasize the importance of local and community level discourse and dialogue in advancing moral and ethical policy concerns, whether they are social, cultural, economic, or environmental. Bellah stresses the need to become citizens working

together instead of consumers competing against one another. People need to move away from morally individualistic orientations and find a greater sense of community and family (Bellah, 1996). The greater sense of community needs to be applied not just to our day-to-day lives, but to our political lives as well. Democracy needs to move away from a competition of self-interests in a political market, and move back towards community participation and dialogue. Politics and participation needs to become more discursive, educational, oriented to truly public interests, and needful of active citizenship (Bluhm and Heineman, 2007; Dryzek, 1990). This philosophical approach, initially conceived by John Dryzek, is known as deliberative democracy.

At the core of deliberative democracy is communal discourse. Deliberative democracy seeks to persuade us that the individual self finds its fulfillment in relationships with others in a society organized through public dialogue versus the accumulation of individualistic and utilitarian needs (Bellah, 1996; Dryzek, 1990). Thus, the best way to address serious moral and ethical concerns that impact our society is by communicating and collaborating as a community, and not competing as individuals. Citizen deliberation is essential if there is to be a collective effort addressing social and environmental problems (Camacho, 1998). Bringing people together for discourse and dialogue, especially those formerly excluded or disengaged from the process, is the main goal of deliberative democracy.

The literature on communicative action and deliberative democracy contends that the best way to address issues of social justice and multicultural difference is to engage the disenfranchised through deliberation. Jurgen Habermas stressed the importance of communicative action and discourse for the maintenance of a civil society (Habermas, 1962). Rather than relying on conflict and competition, communicative action and discourse will broaden the spectrum of who is participating in the process. Deliberative democracy emphasizes

the importance of bringing in people normally not included in traditional forms of participation. John Dryzek believed that democracy should be a process where all parties, regardless of economic and political resources, come together for discourse and deliberation (Dryzek, 1990). Although not specified in the theoretical discourse, deliberative approaches to policy are commonly enacted via local level public forums.

Public forums are intended to provide a safe space for different people, stakeholders, and interests to provide input on matters of policy and planning. However, there are certain criteria that must be met in order for these forums to be truly inclusive and deliberative. Having all voices included in the dialogue is critical. Thus, deliberative forums usually occur on the local or community level in order to facilitate inclusion and participation (Young, 2002; Camacho, 1998; Dryzek, 1990). Moreover, public participation and engagement should involve people from the affected communities providing real input. Instead of having agents acting as representatives for their interests, lower income, minority, and immigrant communities must be directly involved (Camacho, 1998). Only the disenfranchised can truly voice their needs. It cannot be manipulation through the illusion of participation (Arnstein, 1969). All of the difference and diversity in the community at large must be represented in the discourse.

Deliberative democratic and communicative action scholars emphasize that the deliberative political, policy, and planning process needs to be heterogeneous and multicultural. Rather than viewing difference as a source of competition, or ideas and policies as matters to be justified and defended, Drzyek felt that consensus could be reached through open-minded and flexible deliberation (Dryzek, 1990). Discourse empowers communities and encourages collaboration. Moreover, Dryzek and other deliberative scholars felt that along with engagement and consensus, another strength of discursive policy practices is the flexibility across contexts,

50

most notably different policy areas. Deliberative processes can be applied to multiple policy areas.

Ecological democracy applies the principles of deliberative democracy specifically to the land and the environment. Randolph Hester emphasizes that environmental management and land-use decision-making, in the spirit of deliberative democracy, should incorporate and engage all of the disparate interests, especially those excluded from the traditional process. This is the responsible, ethical, and moral thing to do. Environmental responsibility, including respecting people's spiritual and cultural connection to the land, and community engagement are intertwined (Hester, 2006). Mutual respect and inclusiveness are critical for ecological and other deliberative democratic processes to stay true to their spirit.   The theories of deliberative and ecological democracy operate off of idealized principles that set a high bar. Thus, this then begs the question of whether or not deliberative and ecological democratic principles can be enacted in the real world of competitive and hierarchical land and natural resource planning.

Although few would disagree that mutual respect in the environmental planning process is a good thing in theory, there are serious concerns when implementing ecological and deliberative processes in day-to-day policy and planning contexts. Given the power imbalances and inequality in politics, policy, and planning, is mutual respect and open discourse feasible? As discussed, attempts at deliberation and discourse in the policy and planning process are commonly implemented via public participation in meetings or forums. However, due to structural power imbalances, critics contend that open discourse alone, particularly in public forums, is not enough. The public participation process is a flawed process. Due to divergent interests not listening to one another, and mutual distrust, the process of public participation, particularly public hearings, has become less and less productive (Forester, 2009). Trust and

51

respect are missing. Furthermore, the distinct power imbalances present in other forms of participation and decision-making are still present in these forums (Young, 1990; Forester, 1989). Deliberation in public forums alone is not enough to address the flaws of majoritarian political and utilitarian planning processes.

3. Inclusive Processes and Planning

More so than just deliberation in the form of participation in community forums, which is how most forms of public input in planning are conducted, inclusive processes theorists insist that it is important that the policy and planning processes fundamentally reconsider and reevaluate how it does business. Rather than merely participate in what may or may not be perfunctory and symbolic exercises, the land and natural resource policy and planning process should strive to be truly inclusive. Inclusive processes and practices are continuous and evolving. Focusing on sporadic or singular input at public meetings is not enough.

Rather than viewing deliberation as a one-shot deal, it is important for planners and policymakers to understand that democracy and inclusion are an ongoing and evolving process. Similar to deliberative democracy, inclusive processes and practices occur on the local and community level. However, according to inclusive processes theory, public participation in forums and community meetings alone is not enough. Whereas participation at meetings emphasizes public input on the content of programs and policies, inclusive processes strive to create a community that continually works together to define and address critical issues (Quick and Feldman, 2011). Thus, the process is never complete. The process of inclusion refers to, "…an ongoing stream of issues, the continuous development of a community of participation that engages with these issues, and the generation of new possibilities for people to work together on addressing public issues" (Quick and Feldman, 2009, p.139). Inclusion is not a one-

shot event that occurs at public meetings and forums, but rather, it is an ongoing process of community and relationship building. Furthermore, the inclusive processes are not hierarchical or unilateral. Inclusive processes are reflexive, generative, and transformative. Rather then duplicate or alter what has been done, planners and policymakers need to redefine, restructure, and reconstruct existing practices, and embrace new ways of knowing.

Ultimately, inclusive processes are similar to multicultural planning and deliberative democracy in that the goal is to change the status quo of policy and planning. However, rather than focus specifically on advancing cultural and epistemological diversity (i.e. multicultural planning), or emphasize specific institutions for communicative action and discourse (i.e. deliberative democracy), inclusive processes strive toward the creation of an evolving and adaptive community involved in defining and addressing public issues (Quick and Feldman, 2009). Thus, who or what initiates and facilitates inclusive processes is less of concern. What are of greater concern are innovative and adaptive practices that develop flexible and evolving communities of knowing.

4. Collaborative and Consensus Planning

While multicultural planning emphasizes the importance of diverse perspectives and epistemologies, deliberative democracy emphasizes public discourse, and inclusive processes emphasize ongoing and transformative community building processes, collaborative and consensus-based planning focuses on mediated and cooperative solutions over competitive policy and planning practices. Healey (1997) defines collaborative planning as the process by which participants arrive at an agreement on planning action that expresses their mutual interests. According to Healey, all planning activity involves some interactive relation and some kind of governance process (Healey, 1997). Thus, the goal of planning should be towards working

53

together, rather than against each other. By working towards collaboration and consensus, versus competition, planning outcomes that respect diversity and difference will result. Furthermore, planning outcomes will be mutually beneficial, versus outcomes with clear-cut winners and losers. In other words, collaborative planning is the "rational" choice over competitive policy and planning, albeit based on a different understanding of rationality.

Collaborative planning theories are responding to traditional "rational" forms of planning by advocating for a new understanding of what is exactly rational. Innes and Booher (2010) make the case that collaboration is rational. A collaboratively rational process is one in which, ``all the affected interests jointly engage in face to face dialogue, bringing their various perspectives to the table'', and all participants are "fully informed and able to express their views and be listened to, whether they are powerful or not" (Innes and Booher, 2010, p.6). Unlike traditional instrumental rationality, which prioritizes utilitarian and economic benefits, collaborative rationality sees the communal and societal benefits in authentic dialogue among diverse and interdependent agents (Innes and Booher, 2010). Thus, Innes and Booher's definition of "rationality" is more in line with value-rationality. As defined by Habermas (1981), value-rationality is normatively regulated, whereas instrumental rationality is driven by the goal of efficiency. Rather than determine what is rational via benefit-cost analysis, value-rational norms and actions are determined through free and equal discourse and communicative action (Habermas, 1981). In the end, collaborative planning theory strives for a value-based conception of rationality, which seeks collaboratively "rational" outcomes via open dialogue, with the end goal being unanimity. Rather than focus on competition between these diverse interests, the goal of collaborative planning is consensus through negotiation.

Per this alternative conception of rationality, communication and consensus are much more "rational" than planning processes that result in long, drawn out, conflict. A process is collaboratively rational to "the extent that the affected interests jointly engage in face to face dialog, bring their various perspectives to the table, and deliberate on problems they face together" (Innes and Booher, 2010, p.6). Moreover, the end goal of this collaboratively rational process is to find solutions that benefit all interests. Thus, rather than strive for winners and losers, the goal of conflict resolution is to find consensus. Susskind and Cruikshank (1987) argue in favor of dispute resolution that seeks negotiated approaches, often with the aid of intermediaries, in order to build consensus rather than relying on the current competitive system driven by self-interest. This then begs the question, who plays the role of the intermediaries who help facilitate negotiation and consensus? Planners can play a critical role in enacting collaborative and consensual planning practices.

Planners can act individually or through organizations to help bring along negotiations and collaboration between different communities and interests. Thus, in terms of collaborative planning, the planner's role goes beyond that of the detached analyst (Innes and Booher, 2010; Susskind and Cruikshank, 1987). Individually, planners can act as facilitators and mediators. However, collaborative and consensus-based planning also has different organizational and institutional applications. For instance, Adaptive Collaborative Management (ACM) applies collaborative management and consensus building concepts to organizational contexts. ACM emphasizes that organizations should strive to adapt and learn based on context and need, and engage both local and non-local stakeholders in an all-encompassing participatory process (Buck, Geisler, and Schlhas, 2001). Rather than rely solely on precedent and past methods, ACM allows for decision-making and methodological flexibility. Moreover, part of this flexibility

includes embracing epistemological and cultural diversity, and inclusion. Whether it is organizations or individuals, flexible and adaptive collaborative practices are "rational" when considering broader communal, societal, and normative goals.

Despite its normative and value-based "rationality", some critics suggest that along with other deliberative processes, collaborative planning is not feasible due to existing social, cultural, and political inequality. Structure inequalities inhibit who can collaborate and participate, and how (Young, 1990). For this reason, some argue that there is a need for more equitable approaches to planning that address these imbalances and inequalities. Until inequality is meaningfully addressed, deliberation and collaboration will continue to be symbolic. Thus, some theorists suggest that purposeful and directed action needs to be taken in order to reverse the negative trend of power imbalances in our policy and planning processes.

5. Activist/Progressive Planning

Activist and progressive planning theorists contend that in order for equitable planning practices to work, social, cultural, and structural inequalities need to be addressed. Young (1990) emphasizes that the democratic process will never be truly inclusive until it addresses historical injustices and discrimination. Young contends that democracy and deliberation alone is not enough. In order for democracy to maintain its legitimacy, certain conditions need to be met in order to ensure that the process is truly equitable. Otherwise, democratic deliberation becomes a perfunctory exercise. The main reason for this is because structural inequalities impact whom gets to deliberate and how. Thus, conscious and directed action needs to be taken to address these barriers.

Iris Marion Young, Charles Hoch, Karen Umemoto, and many other theorists contend that planners and activists need to work to ensure that the policy and planning process is fair and

equitable. Social inequality needs to be addressed and the disempowered need to be empowered. Ultimately, the goal of democracy should be to promote justice and equality (Young, 2002). However, equality and justice will not occur without concerted effort. Some theorists contend that equitable and innovative policy and planning practices will only happen if people and communities actively fight to make them happen (Young, 2002; Forester, 1989; Krumholz, 1982; Davidoff, 1965). Planning can play a role in promoting social and environmental justice.

Historically, planners have played an active role in addressing issues of social equity and justice.   However, the idea of planners as agents of justice and social change is relatively new to the field. In contrast to the mainstream planning of the early 1900s until the 1950s, which emphasized rationality and detachment, there was a growing sentiment in the late 1960s that planners needed to be advocates and activists for those in need. Activist and academics, such as Paul Davidoff, a lawyer, and Norman Krumholz, the former Planning Director for the City of Cleveland, felt that planners needed to take on an active role in representing and advancing the needs of the disenfranchised (Krumholz, 1982; Davidoff, 1965). The type of planning advanced by Davidoff and Krumholz is known as advocacy, or activist, planning. John Forester refers to this type of planning as progressive planning (Forester, 1989). Thus, the traditional definition of "planning", and the role and duties of the "planner", transformed to go beyond strict analysis to include advocacy. Moreover, the definition of who was a "planner" expanded to include activists, community leaders, and public officials. Activist and progressive planning emphasizes that rather than being neutral analysts who make decisions based solely on quantifiable, and often financial, benefits and costs, planners also need to address issues of social justice and equity by acting as advocates and facilitators.

Forester (2009) emphasizes the critical role activist planners can play as facilitators, moderators, and mediators. The activist planner can facilitate the democratic process by acting as a bridge to not only build trust through mutual respect, but to ensure that social, cultural, and political power imbalances are addressed (Forester, 2009). Moreover, in order to promote discourse, activist planners must ensure that there is equal access to information. Information is a source of power because it can enable citizens, including disenfranchised communities, to engage in the process (Forester, 1989). According to progressive planners, activist and advocate planners must also be mindful of misinformation. The purpose of government and institutionally sponsored misinformation is to disempower the public. Thus, planners can play a critical role in empowering communities by weeding out jargon, calling attention to important planning issues that might have otherwise been obscured by volumes of confusing data and information in reports and proposals, and by encouraging publicly aired political debate and deliberation (Forester, 1989). The planner needs to anticipate and counteract systematic misinformation that is likely to arise in various organizational, political, and planning processes. Thus, planners need to understand that they are more than just analysts of information, but also champions of social justice who ensure open and equal access to information.

Progressive theorists emphasize that planners no longer have to remain on the sidelines as rational dispassionate analysts presenting facts. Planning should strive to connect the separate societies so that a healthy and genuine democracy can function (Bollens, 2002). Rather than rely on the traditional ethic of the detached, neutral, and objective planner, planners should embrace their role as advocates and activists. Craft, technique, and analysis alone are not enough. The planner should also remember the importance of character and community (Hoch, 1994). Planners need to breakdown the assumed dichotomy between expertise and advocacy, and

professionalism and reform. Furthermore, planners who forfeit their claims of "objectivity" in favor of promoting social change should not lose their standing as experts (Hoch, 1994). The fundamental challenge will be to develop transformative strategies that advance traditional democratic values, such as egalitarianism, social justice, and individual liberty, and combine them with popular and collaborative control over collective decisions, all the while enabling individuals to flourish in ways that allow them to realize their potential (Fung and Wright, 2001, p.6). According to activist and progressive theorists, planners can play an instrumental role in advancing equitable planning practices by challenging broader social inequalities and empowering communities.

Despite nuances, the goals of multicultural planning, deliberative democracy, inclusive processes, collaborative planning, and activist planning are to promote fair, just, open, and sustainable policy and planning processes. Multicultural theorists strive for cultural and epistemological diversity in the planning process. Deliberative democracy emphasizes the role of discourse, often on the local or neighborhood level, in democracy. Inclusive processes and planning practices aim to build ongoing and evolving communities of knowing. Collaborative planning contends that collaboration, versus competition, is the normative and value-based "rational" choice. Activist planning stresses the importance of activists and planners tackling social, cultural, and structural inequalities. While the "how" of these theories may vary, all are responding to flaws with the current majoritarian and utilitarian approaches to land, natural resource, and community planning. However, although good in theory, the question then becomes how well do these concepts manifest in practical application.

H. Literature Review Conclusion

The literature on multicultural planning, deliberative democracy, inclusive processes, collaborative planning, and activist planning emphasizes the impact that committed policymakers, activists, and planners, whether working individually or within organizations, can play in actively encouraging more equitable decision-making practices. Therefore, these theorists are advancing an alternative conception of the definition of "planning" and the role of "planners" when compared to more traditional policy and planning theory and practices. Competitive forms of policymaking and utilitarian approaches to land and natural resource planning and public management have historically disenfranchised minority interests and concerns. As a result, according to multicultural, deliberative, inclusive, collaborative, and activist theorists, the policy and planning process can be exclusive, unjust, sexist, racist, and classist. In other words, the process is broken. The break in the process is the result of historical factors, as well as the insistence of maintaining traditional rational and utilitarian planning processes that ignore these historical and social discrepancies.

Scholars argue that the key to advancing moral and ethical concerns, whether they are social, cultural, economic, or environmental, is to engage in discourse and dialogue with each other. However, meaningful deliberation and collaboration cannot occur without meaningful inclusion and empowerment, which requires deconstructing social, political, and economic inequality. Theorists contend that multicultural, deliberative, and collaborative processes will not occur without some form of intervention. In other words, conscious effort needs to be made in order to ensure that the policy and planning processes become more democratic, fair, and just. However, in the absence of clear-cut incentives or motivation, it is uncertain who or what will

initiate a move towards more multicultural, deliberative, inclusive, collaborative, and progressive land and natural resource planning practices, and how this transformation will occur if at all.

The questions remain why and how these alternative planning practices occur in real world policy and planning contexts. While there is a rich body of literature and theory on multicultural planning, deliberative democracy, inclusive processes, collaborative management, and activist planning, going into this research project, it was my intention to provide real-world examples of when, where, how, and why these equitable and collaborative planning practices work. My intention was to ground the existing theory in day-to-day praxis.

CHAPTER II. METHODOLOGY

Due to the inductive and grounded nature of this study, the primary method utilized was an ethnographic analysis of two case studies. An ethnographic case study design allowed for in depth observations and analysis of the different factors that enable, lead to, and support multicultural, deliberative, inclusive, collaborative, and progressive policy and planning practices. The two cases—the Gila River Indian Community and the Arizona Water Settlement Agreement, and Kaho'olawe—were selected based on theoretical and analytical criteria, on feasibility (e.g. traveling to Hawaii and Arizona proved to be less of a financial burden than Australia, Canada, or New Zealand), and most importantly, the potential to reveal interesting information due to their evolving nature. Despite some expectations going into the study based on the preliminary research, the themes and ideas that would emerge over the course of the study were a complete surprise.

The inductive research approach allowed for on-the-ground discovery. For instance, based on initial research, the assumption going into the study was that settlement agreements were what led to more collaborative planning practices (i.e. the settlement agreements were the

"independent variable" that led to collaborative planning practices, the "dependent variable").

However, after interviews, attendance at community events and conferences, and additional research and fieldwork, the theme that began to emerge was that settlement agreements were essentially one manifestation or a concrete example of collaborative planning. Thus, instead of settlement agreements being the catalyst for change, surprisingly, the "independent variable" or factor that led to and encouraged collaborative planning and policy practices in both case studies was federal lawsuits. While some articles and texts had mentioned lawsuits, the catalytic function of lawsuits on collaborative planning practices (e.g. settlement agreements, the Kaho'olawe Island Reserve Commission) did not become apparent until after the ethnographic research and analysis. The "inductive" approach allowed for genuine surprises and unexpected findings.

Data collection and analysis involved semi-structured interviews, field observations, document review and analysis, historical analysis, and analysis of videos and other archival material. Field interviews and observations focused on community and government leaders and organizations (e.g. Kaho'olawe Island Reserve Commission), community meetings and events (e.g. Kaho'olawe Mahina'ai Nights), and policy conferences (e.g. the Native American Rights Fund Bi-Annual Symposium). Field observations and interviews were coded and analyzed for ongoing themes and patterns. Ultimately, the aim of this research project was to provide insight on how and why equitable planning practices work, and how to better enact them in tangible day-to-day planning contexts. The research and analysis should provide new insight on "deliberative", "collaborative", "multicultural", "inclusive", and "progressive" planning practices in action.

A. Ethnographic Case Study

In order to dig into the different historical, cultural, and political factors that led to and enabled more multicultural, inclusive, and collaborative planning practices, the study focused on two cases within the United States. While an international study (e.g. New Zealand, Australia) of similar contexts (e.g. former Crown Colonies, histories of homesteads and treaties) was considered, due to resource and time considerations, and the desire to not stretch the analysis over vastly different cultural and historical contexts, the cases were ultimately picked from within the United States. The communities of interest in the case studies were indigenous communities in the United States.

Ultimately, the reason for the focus on indigenous communities was due to analytical and theoretical leverage. The experience of being alienated from one's land, and the natural tension that exists between indigenous values concerning nature and the utilitarian based approaches to land-use management, provided for strong tests of multicultural, deliberative, inclusive, collaborative, and progressive planning principles. Moreover, despite being a contentious issue area, there were examples that illustrated highly functional and meaningful efforts in the areas of indigenous land-use, natural resource, and community planning. For instance, the National Park Service (NPS) in particular has maintained relatively good working relations with Native American and Native Hawaiian communities, especially in comparison to the Department of Defense and other federal agencies (Burton, 2002). However, even the NPS is not a perfect example of collaborative planning practices, particularly regarding recent concerns over Haleakala and other National Parks. Given the contested and troubling history of indigenous land and natural resource policy and planning in the United States, there are no perfect examples. Nevertheless, the relative successes of the NPS raised the question as to what distinguished

examples of relatively positive and collaborative working relationships from planning processes that that were less "successful", i.e., were less inclusive, multicultural, and collaborative.

Circumstances where equitable planning practices emerged and thrived had identifiable factors. For instance, one factor considered in case study selection was the amount of control indigenous communities had over their land and resources (Susskind and Anguelovski, 2008). An inclusive and multi-cultural land-use planning process will be mindful of the historic importance of sovereignty and self-determination for indigenous communities. Oftentimes, control and sovereignty over the land and resources by indigenous peoples is formalized in codified law or memoranda of agreement and understanding. Thus, the presence of such laws, agreements, and memoranda acted as a good indicator of good faith efforts.

Another critical factor considered in case study selection was how much indigenous people, and their interests and values, were truly integrated and empowered in the land and natural resource planning processes. In other words, did these processes meaningfully include multiple communities and voices, or did they just provide lip service in the form of perfunctory participation (e.g. meetings late in the process) and rhetoric? It was anticipated that the select cases would provide tangible examples of equitable planning practices, as they were noted as exemplars of multicultural, inclusive, and collaborative planning in the literature. Taking a methodical and informed approach to case study selection was critical.

1. Context: United States

The cases were selected from the United States. Although the framework and goals of collaborative planning, deliberative democracy, inclusive processes, progressive planning, and multicultural planning theory are intended to be applied across different cultural contexts, this study focused specifically on indigenous and native communities in the United States. The

64

reason for drawing cases from as similar a context as possible was to ensure some analytical

control. Rather than go abroad and risk the introduction of confounding factors brought in by

vastly different historical and cultural contexts and populations, the goal here was to ensure that

the analysis focused on factors and characteristics such as activism, multicultural planners, and

collaborative planning practices, all the while holding the overall historical, political, and

cultural backdrop relatively constant. As much as the politics, culture, and history of the State of

Arizona varies greatly from the State of Hawaii, those differences are much smaller when

compared to the colonial histories and political cultures of Australia, New Zealand, and Canada.

2. Population: Indigenous peoples in America

Although the ultimate goal of this study is to make findings and recommendations that

will be transferable to other minority and disenfranchised communities, this study focused on

indigenous communities in the United States. Although the experience of being disenfranchised

and disempowered from the political, policy, and planning processes is not unique to indigenous

people, indigenous people do have a unique colonial experience when it comes to the land and

natural resources. Whether it is Native American tribes or Native Hawaiians in the United States,

the First Nation in Canada, aborigines in Australia, or the Maori in New Zealand, all of the

respective indigenous communities share similar histories with treaties, displacement, and

relocation, and all are grappling over similar concerns over land and sovereignty rights (Burton,

2002; Thornberry, 2002; Haveman, 1999). The land and the environment play a critical role in

the Native American and Native Hawaiian experience arguably more so than for any other

community in the United States.

The different institutions and agencies that develop, implement, and administer land-use

and natural resource policy and management on native and tribal land must address a wide range

of ethical and moral issues unique to indigenous and native populations. In particular, local governments, agencies, and planners must be sensitive to spiritual and religious concerns when working with indigenous communities. While some issues, such as environmental justice, have implications that affect all minority and disenfranchised communities, other concerns, such as providing access to national park land for religious ceremonies, are specific to indigenous peoples. For instance, managing a waste disposal site on reservation land will bring up a set of issues, concerns, and implications that apply to many different communities, whether it is poor African American communities in South Los Angeles or immigrant Vietnamese communities in Westminster (Camacho, 1998). However, due to its religious importance to the local Lakota tribe, developing a hiking management plan for Bear's Lodge in Crook County, Wyoming poses moral and ethical questions that are not applicable to the concerns of most lower income minority communities in urban areas. Furthermore, while the lessons learned from Bear's Lodge might not be applicable to urban minority communities, it does have relevance for the community building efforts between the National Park Services and Native Hawaiians who practice religious ceremonies on Kilauea (Burton, 2002). By focusing the case studies and analysis on institutions, processes, and individuals working with indigenous populations in the United States, the goal was to ensure a certain amount of contextual consistency and analytical leverage.

3. Policy and Planning Area: Land-use planning and management of sacred land

Planning for indigenous communities and tribal land involves unique ethical considerations. Most interactions between indigenous populations, and land and natural resource planning officials and agencies, center on how to properly care for, as opposed to manage and extract resources from, the land (Smith, 2008; Burton, 2002). Indigenous peoples have a sacred

66

connection to the land that impacts environmental policy and planning. The planning and management of tribal land and water often involve having to adjudicate between vastly divergent interests. Spirituality and utilitarianism/capitalism, which is the primary ethical paradigm for Western land-use planning, often comes in conflict with the spiritual beliefs of indigenous peoples (Burton, 2002; Beatley, 1994). Thus, indigenous land and natural resource management can become especially complicated due to the presence of multiple conflicting interests and stakeholders who might have less at stake in other instances of environmental planning. Land management and local governmental agencies working with indigenous land and natural resources not only have to mediate and arbitrate between business interests, recreational users, and conservationists who view the land as a resource or place to recreate, but with indigenous communities who believe the land and nature to be sacred (Hester, 2006; Burton, 2002). Due to the divergence between spirituality and utilitarianism/capitalism, these cases provided significant tests for the flexibility of deliberative, collaborative, multicultural, inclusive, and progressive planning practices.

4. Exemplars: Equitable planning practices

Case study selection focused on the rare instances where land and natural resource policy and planning processes and practices have effectively empowered and worked collaboratively with indigenous communities. These are situations and contexts where agencies, planners, officials, and community members have worked together on an ongoing basis in order to develop and implement land use, natural resource, environmental, and community policies and plans that respect both the goals and mandates of the agencies and broad level policy, as well as the cultural and spiritual needs of the indigenous communities. However, perfection was not the goal. Although a situation where negotiated policy and planning decisions satisfied all of the various

stakeholders, communities, and interests involved is an ideal goal, given the contested nature of land-use, natural resource, and environmental policy and planning, outcomes where all interests are satisfied are rare. Thus, a completely "happy" or satisfactory solution for all stakeholders and interests was not a necessary criterion for an exemplar of equitable planning processes in this study.

5. Summary: Case selection criteria

By selecting cases from as similar contexts, populations, and planning subject matter as possible, the goal was to focus the observations and analysis on specific factors associated with real world collaborative and multicultural planning practices (e.g. activism, settlement agreements, agency best practices), versus broader structural factors (e.g. history, national culture) that would have crept in had the study gone with a more international focus. Thus, cases were selected in the United States where equitable indigenous land and natural resource planning practices have emerged, thrived, and sustained in Native communities. Based on these criteria, two cases were selected. Given the difficult and contested history, the cases selected serve as exemplars of equitable planning practices in indigenous land and natural resource planning.

Ultimately, the case study selection involved making judgment calls, albeit informed ones, about situations that represented real world multicultural, deliberative, collaborative, inclusive, and progressive policymaking and planning practices. However, the informed decisions and judgment calls resulted in informative, and hopefully transformative, data. There is a wealth of information that can be mined from these cases that should add insight into the growing work on multicultural planning, deliberative democracy, collaborative management, inclusive processes, and progressive planning.

B. Critical Cases

While the selected cases are highlighted as exemplars, given the volatile nature of land use, natural resource, and community planning in indigenous communities, they were not without their difficulties and complications. Thus, rather than take a bifurcated approach that observed "successful" and "unsuccessful" cases, the purpose of this study was to identify both "successful" and "unsuccessful" elements and characteristics in each case. However, what makes each of these case studies exemplars in equitable land use, natural resource, environmental, and community planning is that, despite difficulties, the processes, institutions, officials, and community leaders are flexible, adaptable, and creative enough to address these hurdles. Based on initial research, which took the discussed criteria into consideration, the following cases were selected:

1. Kaho'olawe Island (Hawaii) and the Kaho'olawe Island Reserve Commission

Similar to Kilauea, the Hawaiian island of Kaho'olawe, located off the coasts of Maui and Lanai, holds considerable cultural and spiritual significance to the Native Hawaiians. However, following U.S. colonization, Kaho'olawe has served as a military resource for the U.S. Navy due to Hawaii's strategic location in the Pacific. Much of the history of Kaho'olawe during the twentieth century has revolved around conflicting goals and interests between the Native Hawaiian community and the U.S. military. Matters would only improve once Kaho'olawe was returned from the U.S. military to the State of Hawaii. Kaho'olawe's history is unique in that it can be broken into two distinct periods; one period where the island was under military control and relationships with the Native Hawaiian community floundered, and a later period after military control when the State of Hawaii took over and community collaboration flourished.

While Kaho'olawe was under military control, relationships with the Native Hawaiian community were hierarchical, unilateral, and combative. For most of its colonial history, the Native Hawaiian community has had a contentious relationship with the U.S. military. The situation with Kaho'olawe was no exception. Kaho'olawe came under military control following the bombing of Pearl Harbor when the U.S. government declared martial law on Hawaii. As a result, Kaho'olawe was designated as a bombing range (Kaho'olaowe Island Reserve Commission, 2013). In 1953, President Dwight D. Eisenhower formally transferred the title for Kaho'olawe to the U.S. Navy. Even after the war had ended, military testing on the island continued. Not unexpectedly, this did not sit well with Native Hawaiian activists who consider Kaho'olawe and all Hawaiian land (i.e. "aina") sacred.

Over the years, numerous Native Hawaiian activists have contested the use of Kaho'olawe for military purposes. Starting in the 1970s, the activist group Protect Kaho'olawe Ohana (PKO) began engaging in protests, lawsuits, and occupations concerning the treatment of the island (Kaho'olawe Island Reserve Commission, 2013). The constant conflict proved costly and troublesome for the U.S. government. After years of litigation, conflict, and protest, President George H. Bush finally ordered a cessation to the bombing on Kaho'olawe. In 1993, Senator Daniel K. Inouye of Hawaii sponsored Title X of the 1994 Department of Defense Appropriations Act, which authorized the return of Kaho'olawe back to the State of Hawaii. Soon after, in 1994, the U.S. Navy formally conveyed the deed of ownership of Kaho'olawe to the State of Hawai'i (Kaho'olawe Island Reserve Commission, 2013). Returning Kaho'olawe to state control has proven to be positive overall. The State of Hawaii and its various agencies have maintained better relationships with the Native Hawaiian community than the U.S. military.

While the earlier military history of Kaho'olawe could be characterized as an "unsuccessful" case in terms of multicultural and collaborative planning approaches, the later working relationship between the State of Hawaii and the Native Hawaiian community would be characterized as an exemplar of equitable planning practices. Today, Kaho'olawe is under the protection and management of the Kaho'olawe Island Reserve Commission (KIRC), a state-sponsored commission that maintains regular contact with activists and representatives from the Native Hawaiian community.

The Hawaiian State Legislature created the KIRC to manage Kaho'olawe while it is held in trust for a future Native Hawaiian sovereign entity. Duties of the KIRC include establishing policies and controlling uses, coordinating environmental restoration of the island preserve, and perpetuating Native Hawaiian cultural customs, beliefs, and practices (Kaho'olawe Island Reserve Commission, 2013). Most notably, KIRC commissioners are comprised of activists and leaders from the Native Hawaiian community. The KIRC is comprised of one member selected by the Governor of the State of Hawaii from lists submitted by Native Hawaiian organizations, a representative from the Office of Hawaiian Affairs, the Chair of the Board of Land and Natural Resources of the State of Hawaii, a representative from the County of Maui, a representative from the community organization Protect Kaho'olawe Ohana, and two members selected by the Governor from a list submitted by Protect Kaho'olawe Ohana. The Governor selects the Chair of the KIRC from among the commission members (Kaho'olawe Island Reserve Commission, 2013). The working relationship between the KIRC and the Native Hawaiian community is as an exemplar of community engagement and collaboration.

2. Gila River Indian Community and the Arizona Water Settlements Agreement

The Gila River Indian Community (GRIC) in Arizona and the Arizona Water Settlement Agreement (AWSA) of 2004 provided a unique example of innovative and equitable planning practices in a highly contested policy area. More specifically, the GRIC and AWSA illustrated the effectiveness of collaboration and negotiation concerning a scarce natural resource, water. A landmark water sovereignty settlement that provided a degree of autonomy to the tribes of the GRIC, the AWSA came about through negotiations between indigenous people and the nation state (Susskind and Anguelovski, 2008). The AWSA is an exemplar in collaborative and multicultural planning because it is the product of an unprecedented negotiation between indigenous peoples, the federal government, and other stakeholders. Furthermore, the establishment of the AWSA rectified a longstanding resource claim by the GRIC.

The negotiation and collaboration that resulted in the AWSA needs to be understood in its historical context. Today, the GRIC is comprised of Pima and Maricopa Indians. The Pima Indians have farmed in the Gila River region in central Arizona for hundreds of years. The Maricopa Indians were integrated into the Gila River community in the mid 18th century, with the formal GRIC being established in 1859 and the constitutional government being established in 1939 (Susskind and Anguelovski, 2008). Problems began to arise with the arrival of non-Indian settlers in the region. In the late 19th century, non-Indian farmers effectively stopped the flow of the Gila River to the GRIC. The stoppage of water flow devastated the traditional life and health of the Pima and Maricopa Indians (Susskind and Anguelovski, 2008). Matters would only improve for the GRIC once activist lawyers took action in the late 20th century. Due in part to the threat of litigation, the federal government chose to negotiate and collaborate with the GRIC, which eventually resulted in the AWSA.

The AWSA stands as landmark in legislation and land use planning. What makes the AWSA unique is that it was at the time the largest Native American water rights settlement in United States history. Furthermore, what makes it of particular interest for the purposes of this study is that it brought together an unprecedented number of Native American and non-Native stakeholders to the table (Susskind and Anguelovski, 2008). Prior to the AWSA, the idea of collaboration and negotiation between these often-conflicting interests and stakeholders was unheard of, especially in the conservative and contested Arizona political landscape. However, despite its successes and gains, the implementation of the AWSA and water rights in the Gila River region is an ongoing concern.

The Gila River water rights situation is not without complications. Although the AWSA and subsequent working relationships between the local tribes and the different government entities make it an exemplar of equitable planning practices, some are still concerned. Critics feel that the control provided to indigenous communities in Arizona and the collaboration encouraged by the legislation is tenuous at best due to the overwhelming concern over water shortages in Arizona (Placito, 2011). The agencies tasked with enacting the AWSA need to do so in the context of diminishing water resources. In fact, the AWSA Planning Process website emphasizes how continued growth in the Gila River region, which involves the transferring of water rights from other areas, is not sustainable due to limited water resources. Collaboration will be critical going forward. Ultimately, the sustainability of the AWSA depends on the maintenance of these negotiated working relationships. The AWSA planning group emphasizes the importance of all interests being actively engaged in the policy and planning process (AWSA Planning Process, 2013). Maintaining positive relationships throughout the water resource management and planning process will be difficult given these challenging circumstances.

C. Data Collection

1. Interviews, conference panels, community roundtables, and field discussions

A significant part of the case study data collection involved conducting and transcribing interviews, and attending and transcribing the open-ended discussions and presentations at conference panels and community events. The selection of interviewees, conferences, and community events was based on preliminary research and outreach. Ultimately, the purpose of the preliminary research and outreach was to identify people and organizations with different perspectives pertaining to the select case studies. In total, there were 16 key informants for the Gila River Indian Community (GRIC) case study, and six key informants for the Kaho'olawe case study. The goal was to gain a well-rounded picture of what is actually going on regarding the various land and natural resource planning processes and practices.

Interviews were conducted using a semi-structured interview guide. While there were certain questions of interest, the goal was to hear open and honest perspectives from the people involved in land, natural resource, and community outreach/tribal planning on a day-to-day basis. Part of interviews involved letting the story unfold, as opposed to trying to corral and dictate the story, which may have happened had the interviews been overly structured. Thus, the semi-structured and open-ended interviews encouraged interviewees to elaborate on their experiences and opinions. The two main interview informants were Dr. Kyle Woodson, Assistant Coordinator of the Gila River Indian Community Cultural Resources Program, and Michael Naho'opi'i, Executive Director of the Kaho'olawe Island Reserve Commission (KIRC). Unfortunately, despite extensive outreach efforts, many of the other potential interviewees did not respond to meeting and interview requests.

One of the challenges in setting up one-on-one interviews was access and the willingness, or lack thereof, to participate. Regarding the Gila River case study, I emailed over 20 tribal and government officials and experts, and only heard back from four people. Similarly, I emailed over ten people regarding Kaho'olawe, but only three potential respondents replied. Interestingly, Michael Naho'opi'i, the executive director of KIRC, despite his higher position within Hawaiian state planning, was the most accommodating and easy official to contact. These and other difficulties and barriers with the interview process are addressed further in the "limitations" section. Despite being a source of frustration at the onset, the lack of interviews did not impede the study, as there were other sources of in-depth and interpretive information. While the interviews were informative, other sources of data were available that provided grounded and open-ended information, similar to what would be obtained from a semi-structured interview.

Conferences, symposia, panels, and community events filled in nicely as additional sources of interpretive information. The panels and symposia essentially served as open-ended interviews in that the presenters, prompted by open-ended questions and directions, provided their unencumbered thoughts on a variety of land use and natural resource planning and management issues. In addition to the interview with Dr. Woodson, key community representatives, officials, and stakeholders from the Gila River, such as Governor Stephen Lewis, Dr. David DeJong, and former GRIC General Counsel Rodney Lewis, were observed in panel presentations at the annual University of Arizona, Water Resource Research Center (WRRC), Conference and the Native American Rights Fund (NARF) bi-annual symposium. In total, 16 informants were observed, recorded, and transcribed at the WRRC Conference and NARF symposium. A complete list of conference and symposium panelists can be found in the

bibliography. Due to limited access and response to interviews, I had to think creativity to find alternative sources of information.

Similar to the information provided by conference and symposium panels, a PBS Hawaii roundtable panel of community leaders and government leaders served as an informative alternative for open-ended discursive information. The PBS panel, which included KIRC Executive Director Michael Naho'opi'i, and Dr. Davianna McGregor, Co-coordinator of Protect Kaho'olawe Ohana, served a function similar to an open-ended interview. The panel was guided by an interviewer who would ask each of the participants open-ended questions regarding Kaho'olawe, including its history, current issues and concerns, and the island's uncertain future. In total four informants were observed, recorded, and transcribed from the PBS panel. A list of PBS community panel participants can be found in the bibliography. All of the conference, symposia, and community panel presentations and discussions were recorded and transcribed, and then coded and categorized for themes. However, while the panel presentations and discussions provided insightful information, there were still additional sources of open-ended discursive information. In addition to conference, symposia, and television forums and panels, impromptu discussions in the field provided invaluable information on the Gila River and Kaho'olawe.

Conversations and discussions during community events and tours provided useful and insightful grounded and interpretive information. Throughout my research, I was fortunate enough to have informal conversations with various officials and community leaders, including Henrietta Lopez of the Pima-Maricopa Irrigation Project during the Pima Canal and GRIC reservation tour, and Kui Gapero, KIRC Cultural Resources Manager, during the KIRC Mahina'ai Night community event. Ke'eaumoku of Protect Kaho'olawe Ohana was observed at

the Maui KIRC I OLA KANALOA community feedback meeting. Much of this informal conversational information occurred concurrently during the field observations.

2. Field Observations at Community Events and Meetings

In addition to the interviews and conference panels, field observations provided additional information and data. Field observations were conducted at conferences, community meetings, and community events. The plan was to attend, participate in, and observe a wide range of meetings and activities. From these events, I was able to gather information on different factors, characteristics, and practices present in successful community planning efforts. Furthermore, by participating in different cultural events and ceremonies, I was able to experience collaborative and multicultural planning practices in a much deeper and more meaningful manner.

The conferences, events, and meetings covered a wide range of policy and planning activities. Throughout the course of the study, I attended: the University of Arizona, Water Resources Research Center, annual conference; a tour of the Gila River Indian Community and the Pima Maricopa Irrigation Project; the Native American Rights Fund bi-annual symposium; a tour of Pyramid Lake; a community cleanup of the Kaho'olawe Island Reserve Commission (KIRC) Kihei Boathouse; a KIRC I OLA KANALOA community feedback meeting; and a KIRC Mahina'ai Night community event. These conferences and community events provided unique opportunities to gain first hand experience in community oriented planning practices.

3. Video and Document Research

In addition to interviews and conference panels, and field observations, videos and documents (e.g. agency newsletters, annual reports, journal articles) proved to be valuable sources of data. While the interview, conference panel, and field data provided current day

77

information, the documents and videos helped provide theoretical and historical context. In particular, academic journal articles, agency newsletters, and agency annual reports provided detailed organizational and historical information. Similarly, documentary videos and news footage helped flesh out past historic events.

D. Data Analysis

1. Historical and cultural context

Part of each case study analysis involved understanding the historical and cultural contexts and circumstances. Historical and cultural information was obtained from not just academic reports, but newspaper articles, agency newsletters, executive director newsletters, annual reports, and videos and films. Additionally, interview questions, and conference panel and field observations included cultural and historical information. Both case studies are embedded in complex cultural, political, and historical contexts.

The current relationships and practices that occur between indigenous communities and different agencies are the products of ongoing history. Observing and analyzing these relationships exclusively at one point in time would be incomplete due to relationships, whether they are positive or negative, being built or destroyed over time. Each relationship and practice has its own history. For instance, in order to better understand the positive relationship that the Kahoʻolawe Island Reserve Commission (KIRC) and the Native Hawaiian community maintain regarding the sacred island of Kaho'olawe, one must understand the contentious history that the Native Hawaiians had with the Department of Defense (DOD) before the island was turned over to the State of Hawaii (Kaho'olawe Island Reserve Commission, 2012; Smith, 2008; Essoyan, 1994). Thus, I was mindful that the data collection and analysis paid special attention to the historical events, cultural practices, and political climate embedded in each case study.

Part of being mindful of historic, cultural, and political context included being mindful of distinct cultural differences (e.g. spirit of Ohana in Hawaii, conservatism in Arizona) between each field site, and understanding the impact that historical context had on each case study (e.g. Kaho'olawe in the 1990s, the Arizona Water Settlement Agreement in the early 2000s). Ultimately, embedding the analysis in culture and history was inevitable, because throughout the course of observing, listening to, transcribing, and coding the various interviews, panels, and community events, historical, cultural, and political context became an ongoing theme.

2. Transcribing interviews, conference panels, and videos

Interviews, conference panels, and community panels were recorded and transcribed. Due to time constraints, a subcontractor transcribed the interviews and panels. In addition to recordings, notes were also taken at the interviews, panels, and community events. Specifically concerning the community events, field notes were either taken as the events were occurring or jotted after the event. For instance, the Kaho'olawe Island Reserve Commission (KIRC) Kihei boathouse cleanup involved fairly rigorous manual labor. Thus, there were no opportunities to take notes as the event was occurring. In addition to field notes, audio recordings were taken at some of the community events. For instance, the KIRC Mahina'ai Night Event included presentations made by KIRC staff members. The same subcontractor that transcribed the interviews and panels also transcribed the recorded audio presentations at these community events.

3. Coding and categorizing based on emerging themes

Interview and panel transcripts, and field notes from community events and conferences, were coded and categorized based on recurring themes. The coding schemes and themes began to emerge throughout the interview and field data gathering process. For instance, the impact of

federal lawsuits became apparent early on and throughout the data collection process. The emergence of federal lawsuits as a theme came much to my surprise, as I had not anticipated that finding going into the study. After field research was completed, transcripts and field notes were reviewed via open coding for additional themes.

The general themes that emerged after data collection and initial transcript and field note review and coding were the following: the impact of community activists as agents of change; the role of federal statutes and lawsuits as equalizers that made the planning process more equitable; the influence of multicultural translators who could act as a bridge between the mainstream and Native communities; the impact of historical and political context; the impact of cultural context; and the benefits of collaboration (i.e. collaborative rationality). After these themes were identified, the transcripts and field notes were coded in a more focused and detailed manner, with specific quotes and observations being placed into one of the thematic categories. The codes/themes then allowed for a comprehensive case study and cross-case analysis, with themes that occurred across cases, as well as observations and practices unique to each case study.

4. Cross-case analysis

The data and information collected from the interviews, panels, field observations, and video analyses were coded based on themes and categories (e.g. role of activists, barriers to collaborative planning). Particular attention was paid to how the themes and categories manifested similarly and differently across the case studies. Not surprisingly, given that the two case studies were outliers and exemplars in terms of collaborative and multicultural planning in general, there were some overarching and consistent themes between the two.

Despite occurring in different settings at different times, both the Gila River Indian Community (GRIC) and Arizona Water Settlement Agreement (AWSA), and the Kaho'olawe and Kaho'olawe Island Reserve Commission (KIRC), case studies saw the impact of community activists and leaders as catalysts for policy change, federal statutes and lawsuits as equalizers mitigating structural inequalities, the role of multicultural translators who could speak to multiple audiences, and the benefits of collaboration for all stakeholders. However, despite these similarities, there were also critical differences between the case studies.

Not surprisingly, Hawaii and Arizona have different histories, natural climates, geography, and politics, which have had a significant affect on both case studies. Some of the key differences that emerged between the two case studies included overall culture (e.g. Spirit of Aloha in Hawaii vs. longstanding anti-Native sentiment in Arizona), impact of history in different ways (e.g. the Cold War on Kaho'olawe, Arizona state politics at the time of the AWSA), and finally that the AWSA was a structured settlement driven by the fear of litigation versus the influence of Ohana (i.e. family) and Kuleana (i.e. responsibility) on the State of Hawaii and KIRC. The codes and themes, and case and cross-case analyses, helped frame the findings into the broader themes of interest to the study, such as, the classification of the planning practices in each case study as non democratic versus equitable planning.

E. Classifying Findings and Data

1. Key concepts

Terms and concepts such as "multicultural", "collaborative", "deliberative", "inclusive", and "progressive" can have multiple meanings and layers, especially when used in day-to-day planning and policy contexts. Thus, how these terms and concepts are utilized and enacted, if at all, in actual practice were of special concern throughout the research and data collection

process. Conversely, the presence of certain actions and practices, such as respectful language or productive working relationships, may or may not have been indicative of, multicultural, deliberative, inclusive, and collaborative practices. It was critical not to make assumptions in the field. Ultimately, the intent was to take an inductive approach to observing, defining, redefining, and possibly rejecting terms and concepts such as "multicultural", "collaborative", and "inclusive" based on observations and discussions in the field.

2. Broader classification of data

Despite concerns with terminology and constructs, I anticipated that my case study findings would contain different combinations of some but not all elements of deliberative democracy, multicultural planning, inclusive processes, collaborative planning, and activist planning theories. Thus, for my data collection, I looked for examples of these theories in praxis, and placed these identified examples of institutions, practices, and individuals into broader, but flexible, classifications.

The following table broadly classifies observed planning practices based on the overarching themes and characteristics of deliberative democracy, multicultural planning, inclusive processes, collaborative planning, and activist planning. Planning practices are categorized within the table based on two axes. On one axis, the horizontal axis, is a continuum that ranges from combative (winner-take-all) to collaborative planning processes. Combative winner-take-all planning practices are the majoritarian processes described by Lijphart, which have led to the "tyranny of the majority" (Lijphart, 1999). Collaborative planning practices, on the other hand, emphasize deliberative and collaborative processes that emphasize dialogue and consensus, versus clear-cut winners and losers (Innes and Booher, 2010; Healey, 1997; Susskind

and Cruikshank, 1987). In summary, the horizontal access is a continuum that ranges from conflict to cooperation in the planning process.
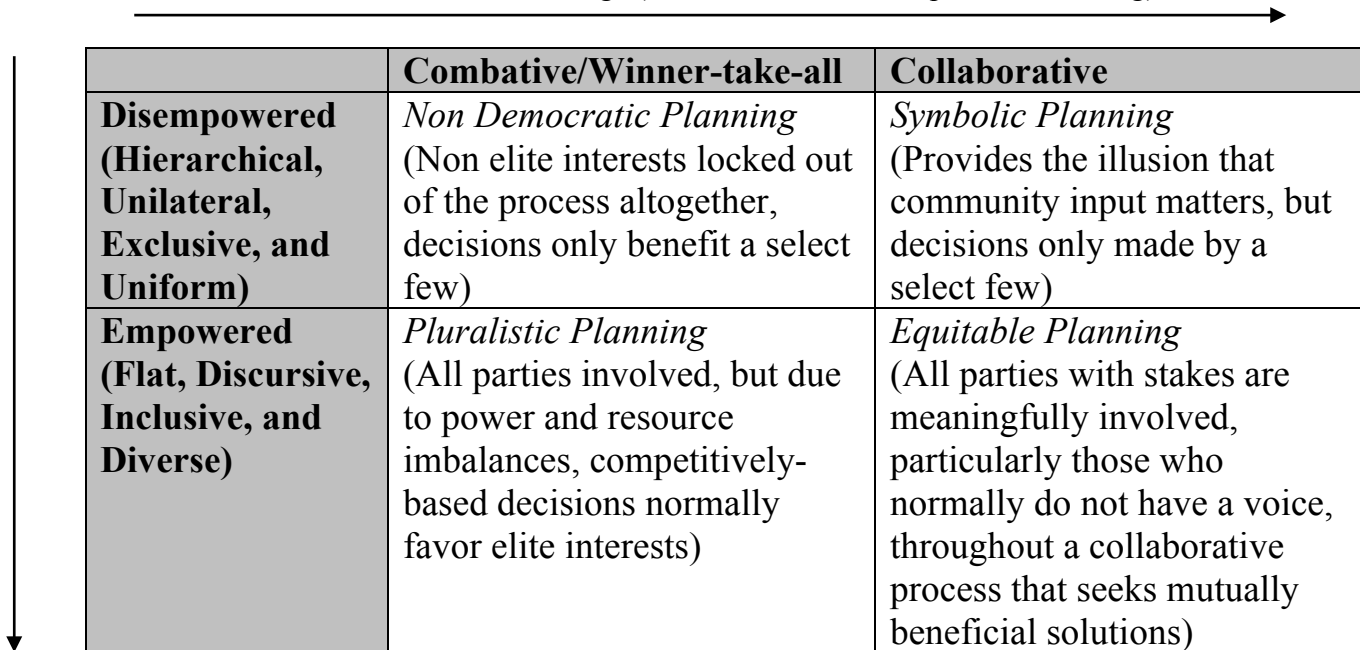
The vertical axis of the table is a continuum that ranges from hierarchical institutional structures, where decisions are handed down unilaterally and planning processes are exclusive, to planning relationships that are flat, inclusive, discursive, and multicultural (Burton, 2002). Critical to this axis is whether or not all stakeholders and interests are legitimately empowered in the process. Issues of power and structural inequalities must be addressed (Young, 2002). Otherwise, the discourse, participation, and engagement will be "symbolic" (Arnstein, 1967). Once the different interests, particularly historically disenfranchised communities, are truly empowered, then the process becomes *equitable*. In summary, the vertical axis is a continuum that ranges from disempowerment and exclusion, to empowerment and inclusion in the planning process.

Table 2: Initial Classifications of Findings (Non-Democratic to Equitable Planning)

	Combative/Winner-take-all	Collaborative
Disempowered (Hierarchical, Unilateral, Exclusive, and Uniform)	*Non Democratic Planning* (Non elite interests locked out of the process altogether, decisions only benefit a select few)	*Symbolic Planning* (Provides the illusion that community input matters, but decisions only made by a select few)
Empowered (Flat, Discursive, Inclusive, and Diverse)	*Pluralistic Planning* (All parties involved, but due to power and resource imbalances, competitively-based decisions normally favor elite interests)	*Equitable Planning* (All parties with stakes are meaningfully involved, particularly those who normally do not have a voice, throughout a collaborative process that seeks mutually beneficial solutions)

Source: Classification based on analysis of planning, policy, and political scientist theorists

Broadly speaking, the data focused on two cases that, at least on the surface and based on initial research, were exemplars of equitable planning. Given that the study observed real-world policy and planning contexts where relationships and practices can get messy and are constantly evolving, it was anticipated that both cases would exhibit characteristics of all *types* (i.e. multicultural, deliberative, inclusive, collaborative, and progressive) of equitable planning at once and at different points in time, which they did. In other words, the case studies would combine different types of equitable planning in their enactment. Planning practices are not unchanging structures. Thus, it was my anticipation that creating a new broader classification known as "equitable planning" would allow for greater flexibility when it came to data collection, analysis, theory building, and eventually to enactment and application of innovative and alternative planning practices that seek to engage and empower disenfranchised communities to the process. Case studies findings with respect to these classifications can be found on Table 6: Classification of Findings (Non-Democratic to Equitable Planning).

CHAPTER III. RESULTS

A. Gila River Indian Community Case Study

1. Background

The Gila River Indian Community (GRIC) in Arizona and the Arizona Water Settlement Agreement (AWSA) of 2004 provide a unique example of collaborative and equitable planning practices. More specifically, the GRIC and AWSA illustrate the effectiveness of community empowerment, collaboration, and negotiation concerning a scarce natural resource, water. The AWSA is an exemplar in collaborative and multicultural planning because it is the product of an unprecedented negotiation between indigenous peoples, the federal government, the State of Arizona, and private interests. At the time the largest Indian water settlement in the history of the

United States, the AWSA came about through negotiations between indigenous people and the nation state (Susskind and Anguelovski, 2008). Furthermore, the AWSA empowered the GRIC, providing a degree of autonomy to the Pima and Maricopa tribes not seen since the late 1800s, when settlers and private interests stole the waters of the Gila River. The establishment of the AWSA rectified a longstanding resource claim by the GRIC and brought together an unprecedented number of Native American and non-Native stakeholders to the table.

a. Early History

The Gila River Indian Community (GRIC) is comprised of two distinct tribal groups, the Akimel O'odham (Pima) and the PeePosh (Maricopa). Prior to merging into the GRIC, the O'odham, or Pima, people had lived in the Gila Valley since before recorded history (D. DeJong, WRRC Conference, June 10, 2015). The PeePosh, or Maricopa, would not arrive in the Gila Valley until much later. In the late 1700s, the Pima and Maricopa formed a political, economic, and military confederation. As later arrivals, the Maricopa Indians were formally integrated into the Gila River community in the mid 18th century, with the formal GRIC being established in 1859 and the constitutional government being established in 1939 (Susskind and Anguelovski, 2008). While the governmental structure of the GRIC is relatively new, the establishment of the formal GRIC came years after the Pima had already established a thriving governmental and economic structure in the region.

Contrary to the popular assumption that the people of the Gila Valley were unstructured and undeveloped prior to Western contact, the Pima, and later Maricopa, were a self-sustaining economically affluent community long before the arrival of European settlers. The Pima had farmed in the Gila River and Gila Valley in central Arizona for hundreds of years, with a history of irrigated agriculture dating back more than two millennia (D. DeJong, WRRC Conference,

June 10, 2015). David DeJong, Ph.D. in American Indian Policy Studies and Director of the

GRIC Pima-Maricopa Irrigation Project, has documented much of the early history of the Gila

River people. As noted by DeJong, the remarkable story of Pima agriculture is one shaped "by

geography, geology, climate, cultural interaction, and living in harmony with the land" (D.

DeJong, WRRC History of the GRIC, June 10, 2015, p.1, line 45-46, p.2, line 1). At the heart of

the Pima story is the Gila River.

Prior to the diversion of the water upstream by non-Native settlers, the Pima enjoyed full

use of the natural flow of the Gila River. The water from the Gila River enabled the Pima to

cultivate two crops a year. In the process of agricultural development and cultivation, the Pima

were able to build a strong and sustainable social and political economy (D. DeJong, WRRC

Conference, June 10, 2015). Explorers and settlers who traveled throughout the region noted the

scale of the Pima's agricultural development.

> "In 1774, Spanish explorer Juan Bautista de Anza described these fields as he
> passed through the Pima villages. He described them as fields of wheat so large,
> that standing in the middle of them one cannot see the ends because of their
> length. The people solely identified with the river that they referred to themselves
> as the Akimel O'odham, the River People"—David DeJong, Director of the Pima-
> Maricopa Irrigation Project (D. DeJong, WRRC Conference, June 10, 2015).

The Gila River was critical to the spiritual, cultural, and economic lives of the Pima, supporting

growth and prosperity throughout the 18th and 19th centuries.

Throughout the 1700s and going into the 1800s, the agricultural economy of the GRIC

and the infrastructure that supported it expanded. From the waters of the Gila River, the Pima

grew extensive crops of corn, bean, squash, cotton, wheat, and other smaller grains. Some of

these crops were not indigenous to the region. For instance, wheat and grains were introduced to

the Pima from the Spanish settlers. Thus, the Pima initially benefited from interactions with non-

Native settlers. The offseason crops of wheat and grains, in particular, led to prosperity and the expansion of the irrigation canals used by the Pima (D. DeJong, WRRC Conference, June 10). During this time, tribal growers were constructing large dams across the Gila River in order to direct water to the agricultural fields throughout the GRIC. The agricultural economy of the GRIC was expanding both in scale and scope.

By the late 18th century, after the introduction of new technology, such as iron, tools, grains, and oxen from the Spanish, the Pima economy morphed from one based on the production of butter to one based on commercial agriculture. At this point, the relationship between the GRIC and the early Spanish settlers was mutually beneficial. The Spanish not only provided new technology, but also new markets for the Pima's agricultural products (D. DeJong, WRRC Conference, June 10, 2015). With new markets and technology, the agricultural and economic growth in the Gila Valley continued into the 19th century.

The 19th century was a time of major commercial agricultural expansion for the Pima, fueled by technology driven crop production, new markets, and alliances. By 1860, there were more than 15,000 acres in production in the Pima villages. In 1860 alone, the GRIC produced 252,000 bushels of grain and 194,000 bushels of corn (D. DeJong, WRRC Conference, June 10, 2015). By the 1860s, the Pima were at the zenith of their agricultural production. Pima agricultural products were sold as far north as the Prescott mining districts, and as far south as Magdalena, New Mexico and Sonora, Mexico (D. DeJong, WRRC Conference, June 10, 2015). Sadly, the good fortune experienced by the GRIC in the 1700s and 1800s would be suddenly taken away. After centuries of growth, the prosperity in the Gila River Valley would come to a sudden halt going into the 20th century.

b. Negative impact of damning the Gila River

The growth and prosperity experienced by the Gila River Indian Community (GRIC) would soon come crashing down with the arrival of white settlers into the Upper Gila River Valley. In the mid to late 1800s, the white settlers essentially stole the GRIC's water. Constructed in 1886 by the Florence Canal Company, the Florence Canal diverted most of the Gila River's waters to the white settlers' lands upstream of the GRIC, depriving the Pima and Maricopa of most of their water (D. DeJong, WRRC Conference, June 10, 2015). By the late 19th century, non-Indian farmers had effectively stopped the flow of the Gila River to the GRIC.

The GRIC was hit hard by the illegal diversion of water upstream. Between 1866 and 1910, the flow of the Gila River declined by 62%. By the early part of the 20th century, the water diverted to the upper Gila Valley by the Florence Canal used over 50% of the River's water, with commercial growers in Florence, Arizona using another 13 to 15% of the water, leaving just about a third of the Gila River's flow left for the GRIC (D. DeJong, WRRC Conference, June 10, 2015). These were difficult times for the GRIC. The steady decline of the Pima crops and agrarian culture is referred to as "the time of hunger" (S. Lewis, WRRC Conference, June 9, 2015). Without the waters of the Gila River, the overall well-being of the GRIC quickly deteriorated.

The impact of the loss of water in the arid Gila Valley of Arizona must not be underestimated. Everything from the economic independence to the physical health of the Pima and Maricopa was adversely affected. The stoppage of water flow devastated the traditional life and health of the Pima and Maricopa Indians (Susskind and Anguelovski, 2008). Crops used for sustenance and economic growth were effectively stolen. In the words of David DeJong, "These upstream settlements diverted water that legally and morally belonged to the O'otham…in the

88

process, downstream O'otham growers began facing shortages" (D. DeJong, WRRC Conference, June 10, 2015). During this period, grain production declined from 105,000 bushels in 1887 to 12,000 by 1904. Half of those bushels were needed for subsistence. Approximately 4,000 Pima and Maricopa now faced hunger. As a result of these shortages and the now floundering economy, the Pima were forced to cut over 100,000 acres of mesquite trees in order to sell them as fuel foods in local towns, inadvertently destroying much of the 65-mile long mesquite bosques that once lined the upper terrace of the Gila River (D. DeJong, WRRC Conference, June 10, 2015). The formerly abundant agriculture of the Gila Valley was now a shell of its former self.

Going into the 20th century, the once thriving agricultural community of the Pima and Maricopa was pretty much at extinction. Nearly half of the irrigation ditches that the Pima had constructed had been abandoned by 1900 (D. DeJong, WRRC Conference, June 10, 2015). With the reduction in agricultural production, many of the GRIC men went to work for the local railroads and mines, while other loitered around looking for work. The few people who had access to water focused primarily on subsistence farming (D. DeJong, WRRC Conference, June 10, 2015). In addition to killing off farming, the theft of water by white settlers destroyed other traditional food sources. For instance, three of the traditional fish that the GRIC used for subsistence were driven to extinction or near extinction (H. Lopez, WRRC PMIP Tour, June 9, 2015). The theft and privatization of water deprived the GRIC from living healthy lives and making a living.

Overnight, the GRIC went from a subsistence community to a dependence community, with negative long-term effects, including public health. No longer able to produce agricultural products en masse and with other local food sources, such as fishing, destroyed, the GRIC

became dependent on the rations provided by the U.S. government. The new food sources introduced a foreign diet that disrupted, not only the traditional life of the Pima and Maricopa, but also their health (S. Lewis, WRRC Conference, June 9, 2015). Public health problems stemming from the loss of water continue to plague the GRIC today. As a result of moving from home grown and farmed food to processed foods, today, the Maricopa have some of the highest rates of diabetes in the world (R. Lewis, WRRC Conference, June 9, 2015). At the heart of the dire situation in the GRIC was the loss of the water from the Gila River. Unfortunately, at the time, the GRIC had little legal recourse within the State-run approach of addressing water rights claims, particularly in the State of Arizona.

c. Native American Water Rights: Gila River prior to the Settlement

Throughout the 1800s going into the 1900s, water rights claims, including Native American water rights claims, were adjudicated on the local or state level. Specifically in Arizona, prior to the Arizona Water Settlements Agreement (AWSA), Native American water rights concerns were usually heard alongside non-Indian water claims on the local or state level (DeJong, 2004). In the 1800s, the U.S. Congress and the President signed the Desert Land Act, the Mining Act, and the Homestead Act, which separated out the water and land estates in the West, stating that water rights should be acquired under state/territorial law. These acts occurred at the same time that the reservations were being created (N. Johnson, NARF Symposium, August 25, 2015). However, as the reservations were being created, water rights were not being assigned to the tribes on those reservations. Thus, Native American tribes were not assigned water rights to the reservation land where they were being forcibly assigned. Furthermore, due to their federal status, Native American tribes were at a disadvantage when it came to negotiating land and water rights claims.

As wards of the federal government, Native American tribes could only negotiate with the federal government concerning water and land rights claims. This was due to the federal government being assigned the authority to negotiate with tribes, with individual state law having no application within sovereign Indian governments (DeJong, 2004). Thus, tribes were at a disadvantage dealing with state and local officials and agencies in that they were not recognized entities by local and state agencies. Not surprisingly, on the state and local level, Native American water rights were generally ignored in contrast to the claims of the enfranchised citizens (i.e. non Indians) who had the ear of government officials (DeJong, 2004). In general, the states did not respect Native American land and water rights claims. This was especially true in the State of Arizona.

At the beginning of the 1990s, the State of Arizona and other private interests in the region did not respect Indian tribes. In fact, the working relationship between the GRIC and the State of Arizona was essentially non-existent throughout the nineteenth and twentieth centuries up until the early 2000s. The non-existent relationship between the State of Arizona and the GRIC could be classified as "disempowered planning". At this time, the idea of collaborative approaches to land and water resource management in Arizona was the last thing on the minds of State legislators and government officials. As recalled by Rodney Lewis, GRIC General Counsel at the time, "They (i.e. officials with the State of Arizona) did not feel that they could engage in valid negotiated settlement or negotiations" (R. Lewis, NARF Symposium, August 25, 2015). Thus, the situation in 1990s Arizona was an example of extreme forms of "exclusive" and "competitive" planning in that water resource planning was highly combative, yet inaccessible at the same time. The GRIC was locked out. It did not appear as if any type of collaboration or fair and just solution for the GRIC would occur. The situation was bleak.

The troubled history of the Gila River Valley, the GRIC, and the State of Arizona, is important to understand, as it sets the political, policy, and planning context in which a radical change in how Arizona planned for and managed its water rights would occur. Given where the GRIC and the State of Arizona were, it is amazing to look back and somehow find that we are where we are today with the AWSA. The AWSA is considered to be a "success", which has sustained and flourished over the past ten years (R. Lewis, NARF R. Lewis Keynote Introduction, August 25, 2015, p.6, lines 10-31). It is one of the rare instances where a group locked out of the land and natural resource planning process was empowered. Furthermore, rather than resolve the conflict with more conflict, the AWSA is one of the rare instances where groups came together to collaboratively find a solution. How did the GRIC and the State of Arizona get to where they are today from where they were throughout the 1800s up until the 1990s? What factors led to the unique outcome of the AWSA, and can these lessons by applied to other instances?

2. Key Findings and Analysis

This study seeks to find out how and why the seemingly unique and exemplary outcome of the Arizona Water Settlement Agreement (AWSA) came to be, how collaborative planning approaches operate in a real policy contexts, and discuss potential lessons learned that may be applied outside of the Gila River Indian Community (GRIC). Thus, an ethnographic field study approach was most appropriate. The study utilized a variety of information sources, including, interviews, conference and symposium panels, field observations, and document and video research.

Information was obtained from key informants via interviews, and panels at the annual University of Arizona (UA) Water Resource Research Center (WRRC) conference and the bi-

annual Native American Rights Fund (NARF) water rights symposium. Key informants

included: Stephen Lewis, Governor of the GRIC; Rodney Lewis, former General Counsel of the

GRIC; John Echohawk, Executive Director, NARF; Dr. David DeJong, Director, Pima-Maricopa

Irrigation Project (PMIP); Henrietta Lopez, Public Involvement Specialist, PMIP; Dr. Kyle

Woodson, Director of the GRIC Cultural Resources Management Program; Michael Bogert,

Parsons Behle & Latimer's Boise, former legal counselor to Interior Secretary Dirk Kempthorne;

Clive Strong, Division Chief, Idaho Attorney General's Office, Natural Resources Division;

Clayton Matt, Director of Tribal Services, Confederated Salish and Kootenai Tribes; John

Weldon, Partner, Salmon Lewis & Weldon, former counsel and lead negotiator for the Salt River

Pima-Maricopa Indian Community; Vincent Randall, Apache Elder, Yavapai Apache Tribe;

Norm DeWeaver, Inter Tribal Council of Arizona; Jason Hauter, Senior Counsel, Akin Gump;

Ruth Thayer, Program Manager, U.S. Bureau of Reclamations, Native American Affairs Office;

Tara Jackson, President, Arizona Town Hall; and Norm Johnson, Division Director, Utah

Attorney General's Office. In addition to interviews and panels, field observations and notes

were taken throughout Phoenix and Chandler in Maricopa County, and the Gila River Indian

Community, Arizona. Henrietta Lopez and David DeJong of the PMIP led a tour of the GRIC

reservation during the UA WRRC conference. Throughout the interviews, panels, and

observations, several key themes began to emerge.

Interestingly, the study findings supported and provided real world examples of

collaborative planning, collaborative rationality, activist planning, and multicultural planning.

Thus, the findings provided interesting real world points of discussion for the various theories

advanced by Karen Umemoto, Lawrence Susskind, Iris Marion Young, and Charles Hoch, to

name a few. The study found that much of the change in Native American water rights planning

practices occurred due to the concerted efforts of Native American activists and lawyers, that the threat of lawsuits by activist lawyers helped equalize the natural resource and land-use planning playing field, that the historical and cultural context of the United States and Arizona in the late 1990s going into the early 2000s mattered significantly in encouraging collaborative practices at the time, that the AWSA is an example of how collaborative planning would manifest in the real policy and planning world, and finally that settlements and collaboration are the "rational" or societally beneficial option versus lawsuits and competitive forms of planning.

Table 3: Summary of Findings for the Gila River Indian Community

Findings	Theorists
Change initiated by activist lawyers	John Forester, Paul Davidoff
Federal laws/lawsuits equalized playing field	Iris Marion Young
Historical and political context key factor	
The Arizona Water Settlement Agreement is a tangible example of collaborative planning	Patsy Healy
Collaboration is the "rational" or societally beneficial option	Lawrence Susskind, Judith Innes, David Booher

Source: Analyst of theorists by Hiroshi Ishikawa

a. Activists and lawyers as catalysts for change

First and foremost, the story of the Gila River Indian Community's (GRIC) success and the creation of the Arizona Water Settlements Agreement (AWSA) can be attributed to bottom-up community activism. While the impact of historical, cultural, and political context will be discussed later, a significant part of the GRIC and AWSA story belongs to a group of outstanding individuals who have been able to represent and fight for the community, while at the same time being able to speak the language of the government and opposing interests. These agents of change have acted as catalysts to bring about the largest Native American water rights settlement at the time, empowered the GRIC, and brought upon unprecedented collaborative planning practices in the State of Arizona.

The study findings reaffirm and provide real world examples of multicultural and progressive activist planning principles. Similar to how John Forester, Paul Davidoff and Norman Krumholz emphasized the importance of activism in initiating positive change in planning practices, in this case, legal activism played a critical role in the eventual success of the GRIC and the AWSA. Similarly, much in the same vein as how Karen Umemoto emphasizes the importance of having individuals who can speak the language and understand the culture of multiple interests and communities, the activists and lawyers from the GRIC communicated the much needed but previously ignored tribal community perspective to legislators and government officials. Moreover, beyond just serving as translators for planners and activists from outside the community, the agents of change for the GRIC came from within the GRIC. In effect, the leaders from the GRIC wore multiple hats, including that of activists, lawyers, planners, and policymakers, and have been doing so for centuries.

The activist spirit in the GRIC goes back to the early 20th century. As early as 1911, activist leaders in the GRIC began to work with the Indian Rights Association to address concerns over land and water. The Indian Rights Association, along with the Presbyterian Church, advocated for the restoration of Pima and Maricopa water, which had been illegally diverted by white settlers at the end of the 1800s (D. DeJong, WRRC Conference, June 10, 2015). However, GRIC activist efforts did not gain full momentum until the late 1960s and early 1970s. It was at this time that the emerging social consciousness began to influence political movements all over the world, including in Arizona and Hawaii.

Whether it was the Civil Rights, Equal Rights, or the environmental movement, lawyers were playing a critical role in this newfound activism. Thus, not surprisingly, lawyers were at the heart of the newfound Native American activism of this time. Interestingly, the emergence of

95

Native American lawyers can be traced back to government social equity policy. As part of the War on Poverty, which began in the mid 60s, the Indian Law Scholarship program supported two-dozen aspiring Native American Attorneys. These early Native American lawyers would go on to act as catalysts of change in how Native American land and natural resources were planned for and managed.

At the center of the emerging Native American legal activism in the late 60s and early 70s were John Echohawk and Rodney Lewis. John Echohawk created the Native American Rights Fund (NARF) in 1970. NARF is an ad hoc group that advances Native American land and natural resource concerns, such as Indian water rights settlements. As a nonprofit organization, NARF has raised money, hired lawyers, and made them available to people whom needed legal representation (J. Echohawk, WRRC Conference, June 9, 2015). As the leading Native American legal advocacy group, NARF has been at the center of Native American land rights disputes, including the Gila River. Rodney Lewis, former General Counsel of the GRIC became involved with NARF in 1978 (R. Lewis, NARF Symposium, August 25, 2015). Prior to Lewis and Echohawk, Native Americans had no voice representing or advocating their interests before local, state, and federal policy and planning bodies.

Rodney Lewis and John Echohawk's experience and training put them at a unique intersection to advocate for Native American land and water concerns. John Echohawk, Director of NARF, received his juris doctorate from the University of New Mexico. Throughout his legal career, Echohawk has been involved in twenty-seven of the Indian water rights cases that have resulted in settlement agreements (J. Echohawk, WRRC Conference, June 9, 2015). Rodney Lewis has been the key driver of not only the GRIC's legal successes, but has also represented other Native American tribes. Rodney Lewis graduated from the University of California, Los

Angeles Law School in the early 1970s. Lewis was the first Native American member of the Arizona State Bar and the first member of an Indian tribe to appear before the United States Supreme Court (J. Echohawk, NARF Symposium, August 25, 2015). Although not technically planners, Echohawk and Lewis's training and knowledge have resulted in the two of them playing the multiple roles of negotiator, broker, and translator that often fall upon planners. Moreover, Echohawk and Lewis have been able to use their training and experience to use federal, state, and local laws, courts, and agencies, which traditionally ignored Native claims, to advance Native concerns, beliefs, and interests. For Lewis, having been born and raised in the GRIC, using his knowledge and training to fight for the GRIC and the Gila River has been a lifelong mission.

Thirty years ago, Rodney Lewis began the long fight to regain the GRIC's water. Lewis focused his entire legal career to make the AWSA happen (S. Lewis, WRRC Conference, June 9, 2015). What makes Lewis's accomplishments all the more remarkable is that the AWSA happened in Arizona, of all places. Arizona is not known as a progressive state and has never been sympathetic to Native American concerns. The tribes in Arizona almost always initiated the water rights negotiation process themselves (J. Weldon, NARF Symposium, August 25, 2015). The one individual spearheading the litigation and negotiation process for the GRIC has been Rodney Lewis.

Today, Lewis is still actively fighting for Native American water rights. In the words of Stephen Lewis, current Governor of the GRIC and Rodney Lewis's son, Rodney Lewis is "spreading the good word of Indian Water Rights" (S. Lewis, WRRC Conference, June 9, 2015). Rodney Lewis is providing a framework for other tribes to follow. Much of Lewis and Echohawk's dedication to fighting the good fight for Native American land and water rights can

be attributed to the fact that, not only are they lawyers and activists, they are Native American activists and lawyers.

It is important that the leaders, lawyers, and activists empowering communities come from within the communities themselves. The success of the GRIC and the AWSA supports this idea. In Rodney Lewis's own words…

> "One of the issues that I have observed working in this world is that native lawyers do make a difference in the room when you are sitting there and settling negotiations, when we are litigating cases. You need people to explain to your local communities what's happening. There is just an interpretation that can happen in ways much more fluently and easily when you have native lawyers at the table"—Rodney Lewis, former GRIC General Counsel (R. Lewis, WRRC Conference, June 10, 2015).

While non-Native lawyers may be able to sympathize with the plight of Native communities, they cannot communicate as effectively to and for Native communities as Native lawyers can. This is not unique to Native Americans, as the most effective Civil Rights lawyers have come from the communities fighting for their Civil Rights. Ultimately, in order for disenfranchised communities to empower themselves, the activists and leaders must come from the respective communities.

The success of John Echohawk and Rodney Lewis provides a strong argument that education and empowerment programs, such as the Indian Law Program, pay off in the long run. Furthermore, the impact of the Indian Law Program goes beyond Echohawk and Lewis. In the early 70s, there were approximately less than a dozen Native lawyers working on Native land and water rights issues. Today, there are over 2,000 Native American lawyers in the United States advancing Native American issues, thanks in great part to the Indian Law Program (J. Echohawk, NARF Symposium, August 25, 2015). Rodney Lewis emphasizes that it is important that the number of Native American lawyers not only remains stable, but grows as well. Thus, it

is important to facilitate and enable more Pima, Maricopa, Navajo, Apache, and other youth from

different tribes with educational opportunities (R. Lewis, WRRC Conference, June 10, 2015).

Educating individuals from disenfranchised communities does more than benefit the

disenfranchised communities. Empowered communities will lead to more progressive and

multicultural forms of policy and planning.

b. Threat of litigation as the equalizer: Federal lawsuits as catalysts for collaboration

Figure 1: Timeline for the Winters Doctrine and the Arizona Water Settlement Agreement

1976	1989	1995	2000
GRIC files first claims based on 1908 Winters Doctrine	GRIC and federal government initiate water settlement negotiations	Federal government files claim against State of Arizona on behalf of GRIC. Senator Jon Kyl organizes Arizona stakeholder negotiations	Federal government, GRIC, and State of Arizona come to stipulated agreement.

2003	2004		
		AWSA bill introduced to U.S. Senate on 2003 and passed on 2004.	Source: Arizona Water Settlement Act (2003)

In addition to the importance of community activism, the successes of the Native

American Rights Fund (NARF) and the Gila River Indian Community (GRIC) addressing past

wrongs committed against Native American tribes in the courtroom point to another key theme

observed in the study, the importance of litigation, or the threat of litigation, as an equalizer in

the land and natural resource planning process. At the core of NARF's activities is litigation.

NARF has been involved with most major Indian rights litigation in the last 45 years (J.

Echohawk, NARF Symposium, August 25, 2015). NARF advances Native American land and

natural resource concerns, such as Indian Water Rights Settlements, primarily through the courts.

Critical to NARF, John Echohawk, and Rodney Lewis's efforts have been the federal

courts and litigation acting as a catalyst for more collaborative agreements and negotiations.

NARF uses litigation, or the threat thereof, to work towards negotiated settlements in conjunction with making sure that the United States government honors its role as trustee to Indian tribes (R. Lewis, NARF Conference, August 25, 2015). Thus, by acting as the "stick" to get Native water and land rights concerns on the agenda, the federal laws and courts help facilitate collaborative planning practices. If there were a key "independent variable" that encouraged negotiated settlement agreements, which formalize collaborative planning and working arrangements, surprisingly, it would be the federal lawsuit.

While the influence of federal lawsuits on collaborative planning practices is surprising, it is not completely unexpected due to the combative nature of land and natural resource planning, particularly when it comes to water rights. The process of making and arguing for water rights claims is highly contentious and combative, especially in states such as Arizona. Ultimately, these types of politicized policy and planning processes end up favoring interests with greater financial and political resources. As a result, minority interests, such as the GRIC's water rights claims, are at a disadvantage. Democratic processes will never truly be inclusive, deliberative, or multicultural until power imbalances and inequality are addressed.

Deliberative democratic scholar, Iris Marion Young, was critical of how feasible democratic practices, including deliberative democracy, were in real world policy settings, given the historical and structural inequalities embedded in the policy and planning processes. Young (1990), Sherry Arnstein (1969), and other scholars contend that unless issues of power and access are addressed, democratic and deliberative processes devolve into symbolic gestures of meaningful input. For instance, officials will often engage in public discussions and meetings to provide the illusion of democracy, when in reality, they have already made their decisions behind closed doors. Most of the significant policy and planning input occurs over time in private

meetings, and via lobbying and ex parte communications. Not all interests and communities have the same access to these exclusive meetings and forms of political communication (Hoch, 1994; Young, 1990; Forester, 1989; Arnstein, 1969). Thus, in the absence of benevolent public officials sincerely seeking to empower and include minority interests into the decision-making process, the excluded communities and interests have to force the issue.

Historically, federal lawsuits and the federal courts have been one way in which disenfranchised communities have been able to find a voice in the political, policy, and planning processes. Whether it was Civil Rights Law or the Native American fight for sacred land via the Religious Freedom Act, federal lawsuits based on federal statutes designed to address civil, religious, human, and environmental rights have been a key factor that have led to more collaborative and multicultural planning practices. The story of the GRIC and its fight for the Arizona Water Settlement Agreement (AWSA) was no different. Along with, or in compliment to, the community activism of Native lawyers, another recurring theme that began to emerge during the field research and analysis was the critical role of federal lawsuits, federal statutes, and the federal courts behind the success of the GRIC and the AWSA.

While one would like to assume that addressing issues of past wrongs, such as the theft of Native land and water, have come about due to the moral consciences of public officials, the pragmatic reality has been that these issues have finally been addressed because Native activists and lawyers have found a useful tool in the form of federal statutes and litigation. Rather than deal with a drawn out and expensive lawsuit, public officials and water resource agencies have found that working towards a collaborative settlement agreement is the "rational" choice in both the instrumental and the value-based normative sense. Instrumentally rational in the sense that collaboration is the more efficient option due to time and cost, and being the normatively

preferable option due to collaboration being driven by communicative action and consensus (Innes and Booher, 2010; Habermas, 1981). Thus, by pushing planning agencies and officials towards collaboration and negotiated settlements, federal lawsuits have been able to transform the land and water resource planning processes from the bottom-up. Whether it is the Religious Freedom Act, the Historical Preservation Act, or the Winters Doctrine, federal law and lawsuits has played and continues to play an important role in empowering the GRIC and other disenfranchised Native communities and, ironically, facilitating collaborative working agreements. Furthermore, in addition to federal law, the federal courts have played a critical role in the fight for Native American land and water rights.

In contrast to state and local agencies and courts, the federal agencies and courts have generally been more receptive to hearing out Native American claims and concerns. Part of the reason is because the federal government has a trust responsibility to protect Native water and land rights claims. Native American land and water are held in trust quarters by the United States government. In other words, the United States government is the trustee of Native American land and water (J. Echohawk, WRRC Conference, June 9, 2015). The states and local governments, on the other hand, treat Native American land and water rights claims no differently, or rather in a lesser capacity, than individual private land owner claims (DeJong, 2004). Thus, Echohawk, Lewis, and other Native American activists and lawyers began to realize that they would need some leverage in order to deal with state and local legislators, courts, and water management agencies.

Early on, Native American communities began to realize that the federal courts, as opposed to the state and local courts and institutions, were where they would have more success having their claims heard and grievances addressed. As early as 1886 and 1912, the GRIC began

to seek assistance from the federal government in order to regain their water (D. DeJong, WRRC Conference, June 10, 2015). Starting in the late 1800s going into the early 20th century, the GRIC and other Native communities began to take their water and land rights grievances to the federal courts.

Although the AWSA is one of the most recent and successful products to come out of Native American litigation, there have been earlier examples. The earliest form of litigation undertaken by the GRIC led to the 1935 Supreme Court Gila River Decree. The 1935 Gila Decree provided water for a small portion, approximately 50,000 acres, of the reservation. In order to provide some context, the GRIC is approximately 372,000 acres with about 256,000 practicably irrigable acres (R. Lewis, NARF Symposium, August 25, 2015). While a critical first step, the Gila Decree still left many water rights issued unresolved for the GRIC. GRIC water and land rights would not begin to gain more traction until the emergence of the Native American activist lawyers in the early 1970s. The key instrument for activist lawyers, such as John Echohawk and Rodney Lewis, has been the Winters Doctrine.

The Winters Doctrine is at the heart of Native American water rights activism and litigation. In 1908, the U.S. Supreme Court issued the Winters v. United States decision, which for the first time recognized Native Americans' reserved rights to natural resources, including water. The first Indian water rights case heard before the U.S. Supreme Court, the 1908 Winters v. the United States decision established that water rights were to be assigned on a first come, first served basis (i.e. first use). Thus, having been on the North American continent first, Native American tribes were established as having senior water rights. The earlier the reservation was created, the more senior the water rights (R. Lewis, WRRC Conference, June 9, 2015). Unexpectedly, the rediscovery of the Winters Doctrine by Lewis and Echohawk finally

empowered Native lawyers to address a longstanding injustice perpetrated onto the Native American tribes by the individual States.

Prior to the rediscovery of the Winters Doctrine, the individual states adjudicated water rights claims, almost always to the detriment of Native American reservations. However, by using the Winters Doctrine, Native lawyers were able to establish that the water rights of Native tribes were held as senior rights that had priority over later created state water rights laws (J. Echohawk, WRRC Conference, June 9, 2015). Under the Winters Doctrine, reservations now had federally supported claims that their water rights were senior to those of the local and state governments, and the private interests that had illegally diverted the water a century early.

Unfortunately, it was not until the 1970s that Native American activist lawyers became aware of the Winters Doctrine for addressing water rights claims. By this point, the damage to the different Native communities had become great and essentially irreparable. In the end, it took the federal government nearly a century to formally address the issue of Native American water rights (D. DeJong, WRRC Conference, June 10, 2015). Moreover, the damage could have continued on unabated for even longer if not for the efforts of Echohawk and Lewis to rediscover the Winters Doctrine. After a century of hardship, the Native American communities finally had something that would grant them a voice and a seat at the table. Local and state governments could no longer ignore Native water and land rights claims, something that they had squashed for centuries. The rediscovery of the Winters decision signaled that a new day was coming for Native American water rights.

Beginning in the 1970s and going into the 1980s, in response to the dire circumstances on the reservations and based on a greater awareness of the Winters Doctrine, tribes began to file federal lawsuits. Due to the efforts of Native lawyers, such as John Echohawk and Rodney

Lewis, the tribes were now aware that they had water rights senior to state water rights (J. Echohawk, WRRC Conference, June 9, 2015). Furthermore, the Supreme Court was aware of these senior water rights. The Supreme Court instructed the state courts to apply federal law, including the Winters Doctrine, when adjudicating water rights claims (J. Echohawk, WRRC Conference, June 9, 2015). Finally, the tribes' water rights claims were being taken seriously. The states could no longer ignore tribal claims.

The states began to sense that they could lose their water rights. It was also at this point that the Native American lawyers realized that, despite having a strong case and federal precedent in their favor, litigation was still an uncertain process with the potential of an inadequate and unfavorable decision or settlement. For instance, prior to the AWSA, the GRIC unsuccessfully went to the Arizona Supreme Court three times in 1999, 2000, and 2001 (R. Lewis, NARF Symposium, August 25, 2015). Furthermore, the changes in the Supreme Court Justice appointments introduced further uncertainty for the tribes. Although the makeup of the U.S. Supreme Court in the 1970s, 1980s, and 1990s was sympathetic towards Native water rights, starting in the 2000s, the tribes were beginning to find it more difficult to win cases due to the more conservative makeup of the serving justices Court (J. Echohawk, WRRC Conference, June 9, 2015). Both the states and the tribes began to realize that litigation might not be the optimal, practical, or logical choice. In fact, the Supreme Court had already encouraged more collaborative solutions for some time.

In the early 1980s, the Supreme Court instituted the first meeting between the western states tribes and the western businesses to try to sort out the situation. The Native lawyers encouraged the western businesses and state representatives to think about a negotiation process, which would recognize the rights of the tribes and the interests of the states, versus formal

adjudication or a legal settlement. An alternative approach would allow all parties to short circuit the formal legal process and reach fair settlements beneficial for the tribes and the states (J. Echohawk, WRRC Conference, June 9, 2015). Thus, the seeds for the collaboration between varied interests seen in the creation of the AWSA in the late 1990s and early 2000s had been planted decades earlier. All of this collaboration would not have come about without the concerted efforts of Native lawyers and their discovery of the Winters Doctrine. In the end, the most important aspect of the Winters Doctrine and water rights litigation is not so much that it leads to winnable court cases for the tribes, but rather that it forces the state and local governments, and private stakeholders, to work and negotiate with Native communities.

Native lawyers and activists, such as Rodney Lewis and John Echohawk, see federal lawsuits not as an end goal, but rather as a way to force the hand of stakeholders towards collaborative agreements. Litigation is a useful tool for groups seeking to have a voice in a process from which they are locked out. The GRIC was only able to get to the negotiation and collaboration that led to the AWSA through litigation. Litigation and the water settlements work together in that one pushes the other (R. Lewis, NARF Symposium, August 25, 2015). However, the goal is not to go to court. Federal lawsuits can be costly for all parties involved, whether it is the Native American tribes, the state and local governments, or the private interests (T. Jackson, WRRC Conference, June 9, 2015). While much can be won in federal litigation, much can be lost as well. Collaboration, on the other hand, is the mutually beneficial choice.

The Winters Doctrine, along with the dedicated efforts of Native American lawyers and activists, has led to the AWSA and other collaborative working agreements between Native American tribes and state and local governments. Rather than risk losing their water rights, the State of Arizona and private entities chose to negotiate and collaborate with the GRIC. Due to

the success of the GRIC, forcing negotiated settlements through litigation is now a common tactic used by other Native American tribes concerning water and land rights claims. The tactic has proven successful, overall. Twenty-nine of the Native American water rights cases have been resolved via negotiated settlements approved by Congress (J. Echohawk, WRRC Conference, June 9, 2015). Thus, based on the success of Winters Doctrine inspired litigation leading to collaborative settlement agreements, NARF continues to employ the same tactic. Currently, NARF is involved in approximately 26 water rights settlement negotiations, settlements, and collaborative working agreements driven by litigation (J. Echohawk, WRRC Conference, June 9, 2015). Along with water rights settlements, the Winters Doctrine, or the spirit thereof, can be applied to other cases, such as the ongoing dispute over the rerouting of the Dakota Access Pipeline through the Standing Rock Sioux Reservation, where development has negatively impacted protected and senior Native American water rights (Indian Country Media Network, 2017). The threat of federal litigation has leveled the playing field for inclusion and collaboration in the land and natural resource planning process, and will likely to continue to do so in the near future.

The ironic success of using litigation to "encourage" collaborative and negotiated settlements between Native American tribes, state and local governments, and private entities, cannot be underestimated. Throughout the last 30 years, NARF has been able to develop working relationships between most of the western states tribes and state governments. Most of the states in the west now try to instigate settlement negotiations in order to resolve litigation (J. Echohawk, WRRC Conference, June 9, 2015). The norm today for most Native water rights disputes is the settlement negotiation. Part of ensuring that these negotiations are equitable is making sure that the tribes are well informed and well prepared for the negotiation table, and that

the negotiations are conducted in a fair manner that protects tribal water uses (J. Echohawk, WRRC Conference, June 9, 2015). The Winters Doctrine has been a game changer for Native American water rights disputes and dispute resolution. However, the Winters Doctrine is just part of the story, albeit a significant factor. In the case of the AWSA, Native American legal advocacy and the Winters Doctrine are just part of a complex picture that has encouraged and facilitated collaboration. It is important to note that Native American land and water rights disputes are embedded in complicated contexts of time and place.

c. Historical, cultural, political, and geographic context

It is important to remember that the Arizona Water Settlement Agreement (AWSA) did not occur in a vacuum. The long battle for water rights, and the unprecedented negotiation and collaboration in Arizona that resulted in the AWSA, needs to be understood in its historical, cultural, political, and geographic context. First and foremost, it is important to remember the influence that the dry and arid climate and geography has on the bitter fight for water rights in Arizona. One only has to visit Phoenix, Chandler, and the Gila River Indian Community (GRIC) to see the dry desert landscape and the lack of vegetation. The only visible river is the Colorado River. The Gila River is dammed by San Carlos, Arizona and is dry most of the year (K. Woodson, Personal Communication, September 25, 2014). Further complicating matters for the GRIC is the overall lack of wealth on the reservation in comparison to neighboring Phoenix and Chandler.

As is the case with most to all Native American reservations, the GRIC is not a wealthy community. The homes are modest in appearance: single story, rectangular, painted in neutral colors, few visible amenities, and average (approximately 20 feet) length and width (approximately 10 feet) driveways (Field observation, WRRC PMIP Tour, June 9, 2015).

Moreover, the homes do not have visible signs of excessive or wasteful water use (e.g. swimming pools, green grass lawns). The landscape is a dry and flat desert scape, surrounded by sand. Throughout the reservation are the abandoned remnants of old trading posts, businesses, utilities, and other empty buildings (Field observation, WRRC PMIP Tour, June 9, 2015). Besides the commercial agricultural fields, there is little to no vegetation. The poverty and lack of vegetation magnify the importance of accessible water in the community.

Resolving water rights conflicts is of outmost importance to the GRIC given its geography, economy, and climate. The tribe needs water to survive. Not surprisingly, water rights disputes and negotiations are in the future for most tribes in the Southwest. According to Michael Bogert, former legal counselor to Secretary of the Interior Dirk Kempthorne, the upcoming water rights agreements will be "the biggest decision that…tribal leadership will ever make in terms of how water goes" (M. Bogert, NARF Symposium, August 25, 2015). However, the drought and climate concerns do not affect the tribes and the GRIC exclusively. The other non-tribal neighbors also need water. Thus, given the stakes, the fight for water rights in Arizona have been and will continue to be especially contentious. It is perhaps this contentiousness that explains both the GRIC and the State of Arizona's willingness to fight vigorously over water rights.

Besides the geography, economy, and climate, one must also understand the political context of Arizona in order to get the full story of the AWSA. The State of Arizona, in and of itself, had and has unique characteristics that both facilitated and complicated the collaboration and negotiation process. First, it is important to note that two thirds of the land in Arizona is federal and Indian (R. Lewis, WRRC Conference, June 9, 2015). The GRIC and the other reservations are not insignificant tracts of land tucked away from "mainstream" Arizona.

Furthermore, the battle for water rights between the federal government and reservations versus the states represents as much sovereignty to the states as any one single resource element that one can match (M. Bogert, NARF Symposium, August 25, 2015). Thus, the opponents of Native American water rights within the State of Arizona see water rights as a "states' rights" issue. Given Arizona's heavy conservative leanings and the obsession with "states' rights", the strong opposition towards Native American water rights should not come as a surprise.

Arizona is probably one of the most conservative and reddest of the red states, particularly in the Southwest. During a July 2014 trip, while staying in a hotel in Chandler, Arizona, I had the chance to watch some of the local television stations. Arizona was in the midst of a gubernatorial election at the time. One gubernatorial campaign advertisement stated, "We are going to build a wall around the border and give Obama the bill" (Field observation, Gila River trip, July 8, 2014). This commercial was one of a number of, in my opinion, incendiary and offensive political commercials that I viewed during my stay in Chandler. Given Arizona's history with the Martin Luther King Holiday, immigrants, and Gay rights, the anti-immigrant and anti-Obama rhetoric of the commercial was not surprising. The tone and sentiment displayed in the commercial is consistent with Arizona's political history. Furthermore, the sentiment and attitudes expressed in this commercial extend to the historic treatment of Native Americans in Arizona.

Despite a significant Native presence in the population and culture of Arizona, Arizona has never been a particularly friendly place for the Pima, Maricopa, and other tribes. In the words of Rodney Lewis, former General Counsel for the GRIC, "Arizona is a very difficult place to live…especially for Native Americans. Native Americans were discriminated against, a lot of racial prejudice against Native Americans. That took place in the area of water rights also" (R.

110

Lewis, WRRC Conference, June 9, 2015). Moreover, the historic experiences of institutional discrimination and racism against Native Americans in Arizona are not a long distance memory. Many of the elders, grandparents, and great grandparents still living today in the GRIC today remember having their water being stolen and being denied of the ability to grow crops (N. DeWeaver, WRRC Conference, June 9, 2015). Therefore, given the prevailing anti-Native sentiment and history, Arizona is the last place that anyone would expect a landmark progressive water settlement to occur. This then begs the question, how could one of the largest Native American water rights settlements in U.S. history occur in Arizona, of all places?

A significant part of the success of the AWSA can be attributed to timing. The efforts that resulted in the AWSA gained steam during a time in which there were key supporters and political allies in both the federal and state government. In particular, the political climate had to hit a critical point on the federal level before Native American land and natural resource settlements could gain any steam. Much of the success of the AWSA and other water settlement agreements goes back to the 1990s during the Clinton Administration.

In the 1990s, President Bill Clinton initiated the Water Rights Settlement Program, which involved U.S. Secretary of the Interior and former Arizona Governor, Bruce Babbitt, and Babbitt's counselor and later Secretary of the Interior, David Hayes, to help expedite the various pending Native American water rights disputes and lawsuits. The Water Rights Settlement Program helped set the table for the AWSA in 2004, which was then signed into law by President GW Bush (R. Lewis, NARF Symposium, August 25, 2015). However, in addition to support on the federal level, the GRIC and the AWSA surprisingly had support within the State of Arizona, albeit for a brief period of time.

Despite a historically difficult political and cultural context in the State of Arizona, the GRIC had key allies and supporters in the state legislature during the early 1990s and early 2000s that helped facilitate the AWSA's negotiation process. According to Rodney Lewis, the negotiation and collaboration process behind the AWSA worked out because of the unique political context at the time. Individuals such as U.S. Secretary of the Interior Bruce Babbitt, who was the former governor of Arizona, and the Arizona Governor at the time, Janet Napolitano, were able to create a collaborative atmosphere in which the settlement could occur (R. Lewis, NARF Symposium, August 25, 2015). Perhaps the most important figure behind the AWSA was former U.S. Senator Jon Kyl.

Despite being a Republican Senator, as a former water lawyer in Arizona, Jon Kyl identified with and understood the cultural and historical importance of resolving major water rights concerns with Native American tribes. Kyl was extremely passionate about settling water rights in Arizona. According to Rodney Lewis, Kyl was the "principal architect" behind the AWSA. Kyl was able to put together the necessary coalition to get the AWSA through the U.S. Senate and eventually the entire Congress (R. Lewis, NARF Symposium, August 25, 2015). Prior to Kyl's coalition building efforts, the water negotiations had come to a standstill in Arizona. The relevant parties were not able to come together and negotiate a water settlement.

Senator Kyl orchestrated the AWSA. Prior to the AWSA, everything was pretty much disorganized in Arizona. Senator Kyl convened meetings and brought all relevant parties, approximately 35 stakeholders, to come to Phoenix and talk about the AWSA. Kyl then directed the parties to think about how the issues that confronted them could be resolved. Despite difficulties and pessimism, the groups were able to come together and present an agreement to the Administration and then the Congress (R. Lewis, NARF Symposium, August 25, 2015). The

AWSA would eventually be signed in 2004. Thus, despite being on the conservative side of the aisle, many of the Arizona politicians at that time had an understanding of Native land and water rights issues that other politicians in other regions of the United States did not. The political context in Arizona and the U.S. government at that time enabled a collaborative approach to finalizing the AWSA. Given the normally combative and conservative political culture of Arizona, the AWSA is an extraordinary example of collaborative planning principles in practice.

The AWSA is remarkable not only because it is a product of a unique period in Arizona political history where collaboration, versus exclusion and competition, was at the forefront, but also because it is an institutionalized and enforceable example of a collaborative planning agreement. While there has been a considerable amount of academic literature on collaborative planning and management, and collaborative rationality, there are few real-world examples of collaborative planning in praxis. By being a real world example of collaborative planning principles, the AWSA provides a template for collaborative, inclusive, and multicultural land-use and natural resource planning that should be applicable and transferable to other situations and contexts.

d. Elements of successful collaborative planning: Arizona Water Settlement Agreement

"Never let a good conflict stand in the way of an opportunity"—Clive Strong, Division Chief, Idaho Attorney General's Office (C. Strong, NARF Symposium, August 25, 2015).

As defined by Patsy Healey, collaborative planning is the process by which participants arrive at an agreement on a planning action that expresses their mutual interests. According to Healey, all planning activity involves some interactive relation and some kind of governance process (Healey, 1997). Interestingly, the Arizona Water Settlement Agreement (AWSA) can be seen both as the impetus or catalyst for collaborative water resource planning and management,

and also as the real world manifestation of collaborative planning itself. In other words, the AWSA is both the "independent variable" that led to and encouraged collaborative working relationships between oftentimes feuding stakeholders, but it is also a practical and tangible example of how collaborative management and planning processes are structured and maintained in the real policy and planning world.

While my original assumption going into the study was that settlement agreements were the sole "independent variable" of interest (i.e. the impetus that drove stakeholders towards collaborative management practices), the research and analysis revealed that formal settlement agreements are actually a step or two later in the process. As discussed earlier, different factors (e.g. community activism, federal land and religious freedom lawsuits, historical and cultural context) are what actually encourage and enable collaborative planning practices to happen. The collaborative planning and negotiations are then formally structured into legally bound collaborative working settlement agreements. Thus, what is of greater interest concerning the actual settlement agreements is not so much how they lead to formal collaborative working agreements, but rather how they operationalize and formalize theoretical concepts, such as collaborative planning and adaptive collaborative management, in real policy and planning contexts.

The AWSA, or more specifically, how it was created, how it is structured, and how it is enforced and maintained, provides a tangible example of how the concepts of deliberative democracy, adaptive collaborative management, and collaborative planning can be applied to the real land use and natural resource policy and planning world. Specifically in the case of Arizona, the AWSA mandates indefinite collaboration concerning the water rights management of the Gila River. Thus, there are several key steps and features to a negotiated settlement that can

provide a framework for collaborative planning in general. The AWSA, or more specifically the

process by which negotiated settlement agreements encourage and then formalize collaborative

working arrangements indefinitely, provides a template of how to create, structure, and maintain

collaborative working arrangements. Based on the analysis of information provided from key

informants, successful and sustainable settlement agreements often include the following

aspects:

Figure 2: Elements of Successful Native Water Settlement Agreements

1) A long-term plan
2) All relevant parties at the negotiating table
3) Plan includes options for adjudication (i.e. courts) or negotiation (i.e. collaboration)
4) Risk shared by all negotiating interests
5) Honest communication, including what can or cannot be negotiated
6) Trust through empathy and an understanding of interests versus positions
7) Litigation no longer an option once the settlement agreements are finalized
8) Collaboration established as the future norm, versus dispute and conflict.
Source: Analysis of information provided by key informants

First and foremost, the settlement and collaborative planning process needs a clear-cut

plan. A key element to a successful negotiated settlement, and collaborative planning in general,

is to have a clear-cut plan at the start of the negotiation process (C. Strong, NARF Symposium,

August 25, 2015). A plan creates a road map to help guide the process. Furthermore, a plan

provides structure. One of the most important components to a water rights settlement agreement

is to establish a structure (e.g. key agencies and organizations, settlement goals, processes,

targets, communication plan) early on that can be maintained by the negotiation teams over a

long period of time. Structure is critical to the sustainability of settlement agreements.

Individuals (e.g. attorneys, community leaders) will come and go from the process (C. Matt,

NARF Symposium, August 25, 2015). The political, cultural, and social context will change.

However, a clear-cut plan and structure will continue and persist, guiding the process indefinitely.

Perhaps the most important aspect of a good negotiation plan is establishing who needs to be at the table. A significant component of the initial planning stages of a negotiated settlement, and collaborative planning approaches in general, is to get buy-in from the key parties. It is critical to ensure that all relevant parties (i.e. tribes, state and local government, federal government, private interests) with an interest are at the table. Obviously, this starts with the tribes themselves. The tribes include not just those working through the tribal councils, but also individual allotment owners, and other interests within the reservation that may not completely agree with that the tribal negotiation team is attempting to do. There is also the United States government. The Department of the Interior (DOI) appoints negotiating teams for each of the water rights settlement processes, including the AWSA. A negotiating team from the DOI is pretty much necessary to move forward (J. Weldon, NARF Symposium, August 25, 2015). In addition to the federal government, the state governments are also critical to include in the negotiation process. The states technically hold the water rights and will be the ones settling the tribe's water rights claims (J. Weldon, NARF Symposium, August 25, 2015). However, the negotiated process does not stop with the government and tribal groups.

Collaborative management and planning requires that all relevant and interested parties have a seat at the table. The parties include not just government entities, but private entities as well (C. Strong, NARF Symposium, August 25, 2015). If the private interests are not at the table, the settlement process is not going to work. The private entities are just as concerned as the tribes about how the state is going to address water rights issues, particularly as it relates to the private interests' livelihoods. Based on Natural Resources Division Chief of the Idaho Attorney

General's Office, Clive Strong's, experience, the water rights settlements agreements did not work until the private interests were included (C. Strong, NARF Symposium, August 25, 2015). Private interests are just one of many interests and stakeholders that must be included in the negotiated settlement process. The philosophy in collaborative planning and negotiated settlement agreements is to have more, rather than less, interests represented at the table.

In the end, the number of parties brought together to sort out a settlement agreement can often go over two-dozen. As far as the AWSA was concerned, according to Rodney Lewis, there were over 30 parties represented.

> "…We had over 35 parties in our settlement. We're talking about mines. We're talking about cities and towns. We're talking about the municipal governments and the federal government, the individual districts, who are farmers. So, it's just a wide variety of people, seeking and work through this settlement…"—Rodney Lewis, former GRIC General Counsel (R. Lewis, WRRC Conference, June 9, 2015).

The inclusion of as many to all interested parties in the negotiation process is what sets truly collaborative, inclusive, multicultural, and deliberative planning practices apart from more symbolic efforts. The process by which the AWSA came about was not a symbolic one. All of the key stakeholders involved in Arizona and Gila River water rights were involved in the process.

Ultimately, including all interested parties and stakeholders in the negotiation and settlement process is the collaboratively rational or mutually beneficial choice. Not including certain interests will result in the process falling apart down the road. This is especially the case when a party wants to be at the table but is excluded for some reason (J. Weldon, NARF Symposium, August 25, 2015). Thus, given how tense and contested issues such as water and land rights negotiations can be, it is important to ensure that certain interests are not inadvertently or purposively excluded.

Excluding interested parties from the settlement negotiation process early on will only result in more trouble down the line. Former counsel and lead negotiator for the Salt River Pima-Maricopa Indian Community, John Weldon, has been involved in numerous water rights settlement agreements. Based on his experience, it is better to be open and inclusive from the beginning. By inviting all interested parties at the onset, it can then be stated that all groups were given an opportunity to participate, even if they chose not to.

> "It's much better to have them there, even if they are completely unreasonable and you can't satisfy whatever it is they want. They are better off there because then you can tell the other state interests and the congressional delegation, these people had an opportunity to participate, we listened to what they had to say, their demands were so unreasonable and so unrelated to what we were doing here. We couldn't satisfy those demands and so we are just going to have to go along without them"—John Weldon, former counsel and lead negotiator for the Salt River Pima-Maricopa Indian Community (J. Weldon, NARF Symposium, August 25, 2015).

While excluding some interests, particularly the "flies in the ointment", might seem easier, doing so will likely become a problem in the long run. In the end, planners and policymakers do not want to get towards the end of the process and find that they have left people behind (C. Strong, NARF Symposium, August 25, 2015). Inclusion is critical. Furthermore, inclusion in the process does not end with the representatives at the formal negotiation meetings.

The community members and constituencies, who will be most affected by the decisions made in the negotiation process, must be included and engaged in the negotiation process as well. A critical component to the AWSA, negotiated settlements, and collaborative planning in general is that the representatives, whether they are from the state or local government, tribal government, or private business, maintain regular communication with the people that they represent. It is important that representatives maintain regular communication with constituents and community members throughout the negotiation and settlement process (C. Matt, NARF

Symposium, August 25, 2015). Moreover, it is important that the community members are not only made aware of what is happening in the formal negotiations, but that they can also ask questions and provide substantive input and feedback throughout the process.

Representatives can engage communities and constituents in the negotiation process in a variety of ways. For instance, smaller meetings focused on specific interest areas (e.g. businesses, realtors). One-on-one meetings are another option, which allow for more specific questions and discussions (C. Matt, NARF Symposium, August 25, 2015). Regardless of whether the meetings are one-on-one or based on interest, it is important that these meetings are ongoing and open, especially with time sensitive information, such as the AWSA. For instance, as part of community outreach for the Pima Maricopa Irrigation Project (PMIP), Henrietta Lopez, Public Involvement Specialist, is regularly conducting outreach to the tribal councils and the individual land allottees on the GRIC reservation (H. Lopez, WRRC PMIP Tour, June 9, 2015). Effective collaboration requires not just a breadth of inclusion, but depth of inclusion as well. Once all stakeholders and interests, on all levels, have been brought on board, the negotiation process can begin.

Along with an exhaustive list of which interests need to be at the table, an effective negotiation play will often establish a bi-furcated process that offers two optional paths, adjudication or negotiation. Separating out the two paths allows for a much bigger and more flexible vision about how to get through the settlement process (C. Strong, NARF Symposium, August 25, 2015). Adjudication is the harsher alternative, while negotiation is the more consensus-based approach. However, the process can go back and forth between the two options. As Rodney Lewis, former Gila River Indian Community (GRIC) general counsel notes, one (i.e. the law or threat of courts and lawsuits) drives the other (i.e. negotiations), and vice versa (R.

Lewis, NARF Symposium, August 25, 2015). Ultimately, negotiation is the preferable, less

costly and time-consuming option. Thus, the impending threat of adjudication and going to court

adds a greater sense of urgency to collaborate. A sense of urgency is critical for a successful

settlement process (C. Strong, NARF Symposium, August 25, 2015). By having a working plan,

the paths, destinations, and options of the settlement agreement process are clarified for all

potential interested parties.

In addition to outlining the optional paths of adjudication versus negotiation, a well-

designed settlement negotiation plan will also establish the sharing of risk. In other words, all of

costs and benefits that may result from the final agreement must be distributed evenly, and this

fact needs to be made clear in the beginning and emphasized throughout the process. By

distributing the benefits and costs, risk sharing ensures a certain degree of cooperation.

According to Michael Bogert, former legal counselor to Secretary of the Interior Dirk

Kempthorne, "No party will ever compromise if somebody is getting a way up or something less

and does not have enough skin in the game" (M. Bogert, NARF Symposium, August 25, 2015).

Risk sharing distributes the costs and clarifies the stakes for all interests involved in the

negotiation process. Therefore, the main purpose of establishing risk sharing in the settlement

process is to ensure that all parties are willing to compromise to a certain degree.

Collaboration and negotiation is challenging because it involves striking the balance

between individual concerns and broader social compromise. Each of the parties involved in a

settlement agreement negotiation process, whether it is the State of Arizona, the GRIC, or private

water users, is an individual entity that has to protect its interests. Therefore, a critical aspect of

getting parties involved in the negotiation process is to understand and respect each entity's

jurisdictional and sovereign authority (C. Strong, NARF Symposium, August 25, 2015). Each

party is accountable to a constituency, and thus their authority should be respected. Thus, it is important to ensure a certain degree of confidentiality to all of the parties involved at the onset (C. Strong, NARF Symposium, August 25, 2015). As individual entities and interests, the respective parties have certain information that is proprietary and sensitive, and cannot be made public. However, if each of the parties is too focused on protecting their individual interests, the negotiation and collaboration process breaks down. Thus, it is important that interests honestly convey their interests, as much as is feasible, throughout the negotiation process.

Collaborative communication must be honest communication. According to Clive Strong, Natural Resources Division Chief of the Idaho Attorney General's Office, one key principle in the settlement and negotiation process is no surprises (C. Strong, NARF Symposium, August 25, 2015). Honest communication includes keeping others informed of potentially unpleasant developments. Being forthright mitigates and anticipates the damaging effects of unexpected events (C. Strong, NARF Symposium, August 25, 2015). Effective collaboration and negotiation can only occur when the parties and stakeholders are honest about their circumstances and intentions, which include what can or cannot be negotiated.

Another key element to any effective negotiation and collaboration plan is to communicate barriers and issues at the onset. It is important for all of the key parties to clearly state what is non-negotiable and what are potential "deal breakers". One reason it is important for the parties to state their fundamental non-negotiable principles is so that the process can accommodate and plan for those principles accordingly (C. Strong, NARF Symposium, August 25, 2015). However, the identification of non-negotiable principles serves an even greater purpose. Besides identifying potential "deal breakers", having all parties state their interests and principles up front clarifies who is truly willing to negotiate. In order for collaborative planning

121

and negotiated settlements to work, all parties must be genuinely interested in negotiating (C. Strong, NARF Symposium, August 25, 2015). If parties are not willing to compromise, then that party and the negotiation process might be better served by them leaving or opting for adjudication. However, open communication serves a greater purpose than just establishing who is or is not willing to compromise. Honest communication not only helps clarifies stances and move the negotiation process along, it also helps build long-term relationships and trust critical for collaborative planning practices.

At the heart of all negotiated settlement agreements and collaborative planning processes is trust. Norm DeWeaver from the Inter Tribal Council of Arizona states that, "In order for there to be an effective collaboration between tribes and every other water interest in the State of Arizona, trust is essential. There will be no collaboration with tribes without building trust" (N. DeWeaver, WRRC Conference, June 9, 2015). Trust is what helps move the process from a stalemate of self-interest and hard line positions towards communication and deliberation. This then raises the question, how does one build trust? As discussed, open and honest communication helps establish trust. However, in addition to honesty, empathy is critical to trust building. The parties truly need to understand the perspectives of all parties at the table in order to build trust (N. DeWeaver, WRRC Conference, June 9, 2015). Part of truly understanding the seemingly opposing views of other parties at the negotiation table is to clarify interests versus positions.

Focusing on shared interests helps build empathy and trust. Based on Division Idaho Attorney General's Office, Natural Resources Division, Division Chief, Clive Strong's experience, moving from positions towards interests helped groups understand that their goals were not altogether that different. While positions are specific (e.g. X amount of water acres),

interests are more flexible (e.g. we all need water in order to survive). Thus, historically, settlement negotiations often focused on establishing interests as opposed to dwelling on specific positions or issues (C. Strong, NARF Conference, August 25, 2015). While the stated positions of the various stakeholders seemed to be at odds, ultimately, their interests and goals were usually not as far off. The tribes, states, and local interests were able to find common ground through shared interests (M. Bogert, NARF Conference, August 25, 2015). Once all of the players were brought to the table and it was established that all of the parties were willing to work towards consensus, trust was built and the process was finally able to move towards a negotiated settlement. However, the formal negotiated settlement is just the beginning of the story.

Ultimately, the AWSA and other formal negotiated settlement agreements must have teeth (i.e. they must be enforceable). Even if all of the parties agree to principle terms, it is still important to formalize the relationships established by the negotiated and collaborative process. A critical aspect to negotiated settlements is that once the formal agreement is completed, litigation can no longer be an option down the road. One of the key enforceable provisions of a completed settlement agreement must be that none of the parties can sue over future water rights disagreements (J. Hauter WRRC Conference, June 9, 2015). Rather, in the future, the different stakeholders must come together and resolve differences over water and land rights collaboratively. Having "teeth" is what makes settlement agreements stand out from other attempts to formalize collaborative agreements, such as memoranda of agreement (MOA) and understanding (MOU). The problems with MOU and MOA are that they often fall apart due to the absence of enforceability. By providing formal structure, the AWSA and other settlement

agreements ensure collaborative and inclusive working arrangements will persist long after the formal negotiation processes are over.

The AWSA and other Native American water rights settlement agreements should not be seen as one-shot negotiations that lead to legal agreements. Rather, the relationships and collaborative practices initiated during the settlement process can and should continue on as normalized management and planning practices. The negotiated settlement agreement process is a formal real world example of collaborative planning and adaptive collaborative management theories. In other words, settlement agreements illustrate that collaborative planning is not just a pie in the sky concept. Formal negotiated settlement agreements work beyond theoretical principles because they contain tangible features (e.g. clear-cut plan, enforceability). Moreover, because of these features and structures, an effective settlement agreement can ensure that the collaboration and negotiation between different interests will continue well after the official documents are signed and the legislation passed. In addition to providing legal and enforceable structure, the negotiation process helps set patterns of behavior and relationships that persist even after the formal process is over.

Once the negotiated settlement is formalized, the groundwork is set for collaborative processes and practices that will persist long after. Collaborative processes, such as the AWSA, set a pattern of behavior for how the states interact with the tribal entities (R. Lewis, NARF Conference, August 25, 2015). Rather than exclude or fight, the states now communicate and engage. The AWSA has resulted in the GRIC collaborating regularly with the State of Arizona and entities around the reservation regarding matters of water storage and resources (R. Lewis, NARF Conference, August 25, 2015). These working relationships have evolved. A greater sense of trust has developed between the GRIC and the outside world (R. Lewis, NARF

Conference, August 25, 2015). Rather than see each other as enemies, the different parties and interests see each other as allies and friends.

Negotiating settlements and collaborative planning, at its core, is about building relationships. As noted by Ruth Thayer, Program Manager, U.S. Bureau of Reclamations, Native American Affairs Office…

> "When they finish these settlements, these guys have been in rooms together for years on end working through some of the most significant issues you can possibly imagine. At the end of the process, in many instances they call each other friends. Then they have to go back and do another one (i.e. negotiated settlement agreement) with a different tribe. So, they build relationships over time"—Ruth Thayer, Program Manager, U.S. Bureau of Reclamations, Native American Affairs Office (R. Thayer, WRRC Conference, June 9, 2015).

Thus, the end of the formal negotiated settlement agreement process is not an end, but rather a beginning. The relationships formed during the negotiation process continue onward, enabling, facilitating, and sustaining collaborative planning practices into the future.

Settlement agreements are not an end point, but rather the beginning of ongoing collaboration, negotiation, and communication. Even after the settlement agreement negotiations are over, many of the interested parties from those negotiations still meet together on a regular, yet non-mandated, basis. For instance, NARF, in partnership with the Western States Water Council (WSWC), sponsors a bi-annual symposium where the different stakeholders involved in Native American water rights agreements come together to meet and share ideas. The NARF symposium has speakers from the federal, state, and tribal sides who have been involved in successful negotiations (J. Echohawk, WRRC Conference, June 9, 2015). However, the broader purpose for the NARF symposium goes beyond intellectual ideas and discourse. By bringing together different stakeholders who have been or are currently involved in water rights negotiations, the NARF symposium encourages collaboration and relationship building.

In many ways, conferences such as the NARF bi-annual symposia, act as extensions of the settlement agreements. At the most recent conference held on August of 2015 in Reno, Nevada, Rodney Lewis, former General Counsel of the GRIC, noted that almost every single Indian moderated settlement that he has worked on has been brought to attention, discussed, and analyzed at the bi-annual NARF Water Rights symposium (R. Lewis, NARF Symposium, August 25, 2015). These types of meetings and conferences are just one way to facilitate and maintain collaborative working arrangements. Much can be learned and transferred from the AWSA and the relationships it has developed.

The AWSA provides a road map for, not only Native American water rights planning, but also collaborative, inclusive, and multicultural land-use and natural resource planning processes in general. In summary: 1) It is important to have a long-term plan; 2) All relevant parties must be at the negotiating table; 3) The negotiation plan must include options for adjudication (i.e. courts) or negotiation (i.e. collaboration); 4) It is important to clarify that risk will be shared by all negotiating interests; 5) Honest communication must be maintained throughout the process, including openly communicating what can or cannot be negotiated; 6) Trust must be through empathy and an understanding of interests versus positions; 7) Litigation should no longer be an option once the settlement agreements are finalized; and 8) Finally, it is important to establish that collaboration and negotiation will be the future norm, versus dispute and conflict.

e. Collaboration is the "rational" choice (The benefits of settlements)

Lawrence Susskind, Judith Innes, and David Booher, to name a few scholars, have all written extensively on how collaboration, versus competition, is the normatively and value-based rational choice when it comes to policy and planning decision-making. In other words, when considering factors beyond individual economic interest and efficiency, such as societal

considerations and mutual-beneficial interest, collaboration and negotiation are the preferable option to ongoing conflict. Interestingly, but not surprisingly, this was the same sentiment expressed by government and tribal officials, and private interests, involved in water resource planning and management. The "benefits" of collaboration outweigh the "costs" of taking a more combative approach, such as long drawn out litigation.

Collaborating and negotiating is preferable to long drawn out litigation and court cases. As Michael Bogert, former legal counsel to the U.S. Department of Interior notes, "… there is really no other alternative but to negotiate, sometimes endlessly, sometimes to a mind numbing degree, as opposed to the alternative of litigation" (M. Bogert, NARF Symposium, August 25, 2015). As frustrating and slow moving as the negotiation process may be, collaboration is still preferable to litigation. Tara Jackson of the Arizona Town Hall, an organization that tries to bring parties in Arizona together to negotiate and collaborate over their differences, notes that "Trying to resolve complicated issues in the court system is really one of the worst ways and should be the last resort for solving problems" (T. Jackson, WRRC Conference, June 9, 2015). Litigation is costly and it causes uncertainty. Negotiation is a less costly and much more certain alternative (R. Lewis WRRC Conference, June 9, 2015). Furthermore, litigation results in clear-cut winners and losers, which often has less to do with the facts or justice, and more often to do with financial resource, politic favoritism, and an oftentimes flawed legal process. Water, land, and natural resource planning does not have to be about winners and losers.

The Arizona Water Settlement Agreement (AWSA) has been about as close as a "win-win" for all of the parties involved as possible. As a result of the AWSA, all of Arizona, Central Arizona, and the Gila River Indian Community (GRIC) have benefited from the waters of the Gila River (R. Lewis WRRC Conference, June 9, 2015). For instance, the AWSA includes

specific details and financial support for irrigation systems and clean drinking water systems in the GRIC. The tribe compromised and gave up some rights, such as the claim to more water it could have obtained in litigation, but the tribe then receives monetary benefits from the government instead. These funds are extremely beneficial for the tribe, who uses them to build irrigation systems that they could not afford to build on their own. In turn, the state and local governments save money and resources that would have been spent on long drawn out court litigation (R. Lewis, NARF Symposium, August 25, 2015). Everyone wins in the end.

In addition to the respective interests and parties benefiting, the actual land and natural resource planning process benefits from greater inclusion and collaboration. Consensus based approaches that emphasize a diversity of perspectives allow for more creative and inspiring ways to solve problems (T. Jackson, WRRC Conference, June 9, 2015). Greater cultural and epistemological diversity in the land and natural resource planning leads to more flexible, adaptive, and sustainable solutions. The GRIC and the State of Arizona have benefited from the collaborative framework established by the AWSA. Rather than fight and litigate, the parties now have a plan that embraces a diverse range of interests and policy options. Moreover, by the design of the settlement agreement, the different perspectives and interests are now on equal footing. Collaborative planning practices engage and empower.

Perhaps the greatest benefit of collaborative planning practices and negotiated settlement agreements is that they empower communities that have been disenfranchised for far too long. One clear-cut beneficiary of the AWSA is the GRIC. Now in its tenth year, the AWSA has been a positive for the GRIC. After more than 130 years of legal wrangling, the GRIC's water budget was quantified and protected under the AWSA (D. DeJong, WRRC Conference, June 10, 2015). While the Gila Decree of 1935 had restricted water to only 50,000 acre-feet, the AWSA of 2004

128

has increased that amount to 653,000 acre-feet of water. The GRIC does not just have water rights on paper, but access to actual water (R. Lewis, NARF Symposium, August 25, 2015). With the increased annual water budget of 653,000 acre-feet of water per year, the GRIC has embarked on a plan to irrigate upwards of 90,000 acres of land (D. DeJong, WRRC Conference, June 10, 2015). At the heart of the new post-AWSA GRIC irrigation plan is the Pima-Maricopa Irrigation Project (PMIP).

The PMIP is large-scale irrigation project that it will provide agricultural and financial stability for the GRIC. Scheduled for completion in 2029, agricultural canals for the PMIP are currently being built. The pipelines have been installed and water is being irrigated from one end of the reservation to the other. In the past, the layout of the GRIC caused problems for the movement of water. The GRIC is elongated at approximately 60 miles long and approximately 20 to 25 miles wide (R. Lewis, NARF Symposium, August 25, 2015). Water can now be moved from one end of the reservation to the other using a sophisticated electronic system. Besides addressing issues of infrastructure, the AWSA has also resolved the most significant water problem in the GRIC, access to water.

The GRIC finally has access to regular flowing water. After the Gila River had been illegally dammed upstream, the GRIC had limited to no access to water. The AWSA has righted this past wrong. Now, the GRIC obtains water from a variety of sources, including surface water, ground water, effluent water, and Central Arizona Project (CAP) water (i.e. predominantly from the Colorado River). Most of the water is from the CAP (R. Lewis, NARF Symposium, August 25, 2015). The renewed access to water has far reaching social, cultural, and economic implications.

The GRIC is once again primed for the agricultural growth that it had seen in the 1700 and 1800s. As was the case in the past, the GRIC has several distinct geographic characteristics that facilitate agricultural production. For instance, the GRIC is relatively flat and it has fertile soil. Approximately 266,000 acres of the land is capable of being farmed (R. Lewis WRRC Conference, June 9, 2015). The one missing component until recently was actual water. All of that has changed with the renewed access to water provided by the AWSA and the PMIP. Farming was such an integral part of the history of GRIC, and leaders within the GRIC hope to see a return to economic independence based on agricultural production. In the end, the GRIC envisions itself becoming the breadbasket of the region once again (D. DeJong, WRRC Conference, June 10, 2015). The AWSA and PMIP are making that vision a reality.

The AWSA has resulted in economic and agriculture development not seen in the Gila River region since the 1800s. Native farmers are reclaiming and regaining use of the land. The new agricultural development has led to new jobs. A strong economic force is beginning to emerge within the GRIC once again (R. Lewis, NARF Symposium, August 25, 2015). The renewed access to water and interest in agriculture has resulted in several thousands of acres returning into production. Currently, there are 35,000 acres in the GRIC being used for agricultural production, with another 6,000 acres schedule to come online by 2020 (D. DeJong, WRRC Conference, June 10, 2015). For the most part, the increased agricultural production is focused on commercial agriculture.

Rather than rely on federal government assistance or the State of Arizona, the GRIC has become the driver of its economic growth and job creation. The two commercial agriculture ventures are Gila River Farms and Global Native (H. Lopez, WRRC PMIP Tour, June 9, 2015). A benefit of this newly revitalized commercial production is that it has led to more employment

in the GRIC. Gila River Farms and Global Native currently employ 84 tribal members and produce a significant amount of revenue for the tribe (N. DeWeaver, WRRC Conference, June 9, 2015). All of this positive growth is a result of the opportunities provided by the AWSA and collaborative planning practices.

In addition to economic revitalization, the AWSA will bring water back to the currently dry Gila River bed. Native people, including the Pima and Maricopa, believe the water to be spiritually sacred. The Pima and Maricopa have been deprived of this sacred cultural blessing for over a century. Moreover, as a result of the illegal damming, native fish and plants, instrumental in Pima and Maricopa cultural practices, have died out over time. Thus, another plan of the GRIC is to restore the Gila River and repair recharge areas (R. Lewis, NARF Symposium, August 25, 2015). The ultimate goal is to return the Gila River to the community. Water flowing through the Gila River is something that the GRIC has not seen since 1935 (R. Lewis, NARF Symposium, August 25, 2015). By bringing back the river flow, the plan is to reinvigorate parts of the now dried Gila River bed for a multitude of uses.

One of the long-term goals of returning water to the Gila River is to revive cultural practices. For instance, one of the reasons for returning water to the Gila River bed is in the hopes of reviving old native plants used for basket weaving. Basket weaving has been a long-standing tradition within the GRIC. The HuHuGam Heritage Center in the GRIC proudly displays baskets weaved by Pima throughout history. It is the hope that this tradition, along with traditional cultural practices, can be brought back once water and the native plants are returned to the Gila River. Encouragingly, the new plans for the Gila River have inspired the youth to take action. Some of the younger GRIC members have begun to meet regularly in order to re-establish the farming of traditional plants and crops along the Gila River (H. Lopez, WRRC

PMIP Tour, June 9, 2015). Besides providing economic independence, the AWSA has benefited

the GRIC by connecting younger members of the community to the traditional cultural practices

of the Pima and Maricopa.

Collaboration is the normatively "rational" choice because it empowers the

disempowered and leads to patterns of cooperative behavior that can be plugged into in other

policy and planning areas. The AWSA has created a sense of once missing stability on the GRIC

reservation and off the reservation, allowing everyone to know that water is available for

everyone (R. Lewis, NARF Symposium, August 25, 2015). Furthermore, the settlements build

relationships and lead to long-term partnerships, which help facilitate better policy and planning

all around.

> "There is a way, a pattern in which issues can be attacked, looked at and analyzed
> and eventually resolved. I think all of that flows from a Water Rights Settlement.
> All the work which was accomplished in the Water Rights Settlement is not only
> toward developing the water, not only for getting the stability for a quantified
> amount for water, but also it leads toward developing a such kind of pattern for
> resolving other issues that exist between the state and the tribe"—Rodney Lewis,
> Former GRIC General Counsel (R. Lewis, NARF Symposium, August 25, 2015).

Collaboration emphasizes the importance of shared benefits, versus winners and losers. The

AWSA is a real world example of collaborative planning and the normative "rationality" of

collaborative planning practices.

f. Challenges: Ongoing and emerging issues

Settlement agreements are not perfect and should not be seen as the panacea for the ills of

nondemocratic and pluralistic planning. Although there are definitive benefits associated with

collaborative planning, formal settlement agreements have their costs. One major concern with

developing settlement agreements is that they take a long time. Settlement agreements can take

ten years on average (C. Strong, NARF Symposium, August 25, 2015). As a result of the

extended time required for settlement agreements, individual turnover of participants and representatives can become a problem. The lack of continuity amongst government officials and other stakeholders due to turnover can complicate the negotiation process (C. Strong, NARF Symposiu7m, August 25, 2015). However, a well-developed plan that anticipates that key players will come and go throughout the process can mitigate some of the consistency problems. Furthermore, due to the long-term nature of the settlement process, the new alternative to decades of negotiations with limited resources is phased settlements (M. Bogert, NARF Syposium, August 25, 2015). Thus, the incremental nature of phased settlements can also mitigate some of the issues of consistency when officials and representatives leave the negotiation process. However, the duration of the settlement agreement process and potential concerns with consistency are not the only issues.

Another issue with negotiated settlement agreements is funding. As John Weldon, former general counsel and lead negotiator for the Salt River Pima-Maricopa Indian Community, noted, "The United States and the Department of the Interior (DOI) don't like to spend their money" (J. Weldon, NARF Symposium, August 25, 2015). Money, or the lack thereof, has always been an issue. However, recently, matters have gotten worse. Currently, the DOI cannot commit any money, making the approval of Congress for settlement agreements difficult to obtain. Other than two smaller settlements, which did not involve any federal funds, there have not been any congressionally approved water rights settlements since 2010 (J. Echohawk, WRRC Conference, June 9, 2015). Thus, given the lack of federal funds and the time required to sort out the negotiation process, other communities seeking to push towards a settlement agreement should proceed with caution. The AWSA benefited from coming at the right place and the right time. Moreover, despite its successes, even the AWSA faces ongoing challenges.

Although the AWSA and subsequent working relationships between the local tribes and the different government entities make it an exemplar of equitable planning practices, some are concerned about the long-term sustainability of the agreement. Critics feel that the control provided to indigenous communities in Arizona and the collaboration encouraged by the legislation is tenuous at best due to the overwhelming concern over water shortages in Arizona (Placito, 2011). Arizona already has a long history of conflict due to lack of water, including the Gila River Indian Community (GRIC). The Gila River is dammed by San Carlos, Arizona and is dry most of the year (K. Woodson, Personal Communication, September 25, 2014). Climate change and drought have only made concerns about access to water even worse in states such as Arizona and California. How long can collaborative water agreements last in the face of limited and diminishing water resources? The AWSA and its long-term viability and sustainability will be tested given the climate and political context.

Along with being situated in an already difficult context of drought and water shortages, the AWSA is also embedded in a political, policy, and planning context unfriendly to Native water rights concerns. On the state and local level, where water rights are generally negotiated, Native American interests and values have historically been ignored in contrast to the claims of the enfranchised citizens (i.e. non Indians). Native Americans generally do not have the political connections and contacts (DeJong, 2004). Moreover, as discussed earlier, planners and policymakers hold little regard for indigenous values and beliefs towards the land, water, and environment (Susskind and Anguelovski, 2008; Burton, 2002). The AWSA already has its fair share of critics, opponents, and challengers. There are people on the non-Indian side who feel that Arizona is giving away all of its water rights to the Gila River Indian Community (GRIC) (J. Weldon, NARF Symposium, August 25, 2015). In addition to posing challenges for water

management and planning in the face of drought and climate change, the AWSA confronts the traditional political order, particularly in Arizona.

Besides shaking up the traditional structure of Arizona water resource planning, the AWSA also poses a unique challenge for "State's Rights" advocates. There are always issues of sovereignty and authority when there are so many players and levels of government involved. Jurisdictional issues between levels of government, U.S. government versus tribal government, and within tribal governments can become an issue (C. Strong, NARF Symposium, August 25, 2015). In particular, conservative states have been especially recalcitrant when it comes to issues where the federal government infringes upon "State's Rights". Nowhere is this, States versus the U.S. government, battle apparent than in the assigning and adjudication of water rights. Thus, the battle for water rights between the federal government and reservations, versus the states, represents as much sovereignty to the states as any one single resource element that one can match (M. Bogert, NARF Symposium, August 25, 2015). Thus, in addition to the logistics of maintaining and implementing the AWSA, the agreement still faces challenges and critiques to its legitimacy.

As a result of the objections and pushback, there are many, particularly in the GRIC, who are concerned about the future of the AWSA. Critics feel that there is little reason to think that the AWSA and the victory that it has afforded the GRIC will be honored in the long run (Placito, 2011). Furthermore, there is sentiment within the GRIC that the surrounding farmers and non-Indian people will challenge the AWSA. Some within the GRIC fear that the water budget will be cut back or that the renewed water rights to the Gila River could be taken away outright (Unnamed participant, WRRC Conference, June 9, 2015, p.9, line 30-37). Thus, the AWSA

faces a difficult future. Moreover, the challenges to the implementation of the AWSA and management of the Gila River are not limited to critics and opponents from outside of the GRIC. In addition to opponents to the AWSA from those outside of the GRIC, it is important to remember that there are significant differences of opinion within the GRIC.

One of the dangers of studying a community is making the erroneous assumption that the community is singular and monolithic when it comes to its opinions, beliefs, and goals. As is the case with other communities, the GRIC and other Native American communities in Arizona are no different when it comes to diversity of opinions, beliefs, and goals. For instance, the Pima and Maricopa in the Salt River Indian Community are divided between the traditionalists and the more commerce-friendly progressives (Frantz, 2012). The GRIC is no different. Dr. Kyle Woodson, Assistant Manager of the GRIC Cultural Resources Management Program, emphasized that there are a wide range of opinions within the GRIC concerning the AWSA, the PMIP, and other development projects.

Naturally, interests within the GRIC differ and are sometimes at odds. While some interests are focused on the cultural and spiritual aspects of the land and water, there are others who are focused more on development and commerce. For instance, there is a freeway loop in the Phoenix area that passes on the north edge of the GRIC reservation and a sacred mountain range. There are those in the GRIC who opposed the loop, but there are also those within the GRIC who supported the loop due to its commercial benefits (K. Woodson, Personal Communication, September 25, 2014). It is not difficult to imagine a similar scenario and conflict over the commercial versus cultural usages of the Gila River. Given both the economic and cultural needs of the GRIC, the tension is understandable and not an easy matter to resolve. On one end, the community needs to remain economically viable in order to survive. However,

on the other end, the internal tension between business-friendly and traditionalist members of the community is often rooted in old fears going back to colonialism, and the theft of the GRIC's water and land.

Given the difficult history of activism and struggle, there is always a fear within the GRIC that community interests might be co-opted and marginalized by the state and federal governments. There is also concern that the opinions of some of the community members, particularly the non-college educated community members in the GRIC, are not being heard (Unnamed participant, WRRC Conference, June 10, 2015). Thus, internal community tensions should be respected and not taken lightly. On top of the challenge of maintaining collaborative and positive working relationships with non-GRIC stakeholders, the GRIC must ensure positive communication and cooperation within when it comes to the implementation of the AWSA and stewardship of the Gila River. Given the centuries of injustice, and the seriousness of climate change and its impact on dry regions such as Arizona, fighting and conflict within the GRIC and between various interests in Arizona is not a practical or sustainable option. Collaboration and communication between and within communities must continue to be fostered as natural resources become scarcer.

Going forward, the agencies and communities tasked with enacting, implementing, and maintaining the AWSA and water resource management in Arizona are doing so within the context of diminishing water resources. In fact, the AWSA Planning Process website emphasizes how continued growth in the Gila River region, which involves the transferring of water rights from other areas, is not sustainable due to limited water resources. Thus, collaboration will be critical. Ultimately, the sustainability of the AWSA and future agreements depends on the maintenance of these negotiated and ongoing working relationships. The AWSA planning group

emphasizes the importance of all interests being engaged in the planning process (AWSA Planning Process, 2013). Maintaining positive equitable relationships will be difficult given the challenging circumstances of diminishing water resources and climate change. The stakes are high and the importance of communication and discourse must not be underestimated.

B. Kaho'olawe

1. Background

Located off the coasts of Maui and Lanai, the Hawaiian island of Kaho'olawe holds considerable cultural and spiritual significance to the Native Hawaiians. Kaho'olawe was believed to be the home of Kanaloa, the Hawaiian god of the oceans. Hawaiians would come to Kaho'olawe to commune with Kanaloa. The island also served as a camp for fishermen traveling between Maui and Lanai, and acted as a training ground for oceanic navigation. To this day, artifacts from fishing villages, oceanic training, and cultural and spiritual ceremonies can be found throughout the island.

Despite its historic, cultural, and spiritual significance to the Native Hawaiians, throughout the nineteenth and twentieth centuries, the U.S. government showed little to no respect for Kaho'olawe. Following the overthrow of the Hawaiian monarchy by U.S. business interests in the late 1800s, the Hawaiian Islands, including Kaho'olawe, have been farmed, developed, and desecrated by colonists. Farmers overgrazed Kaho'olawe throughout the 1800s and the early 1900s. Things would get worse for Kaho'olawe once the U.S. military took control of the island.

The federal government and U.S. military did not believe in collaborative, inclusive, or multicultural planning practices. While Kaho'olawe was under the control of the U.S. Navy, relationships with the Native Hawaiian community were hierarchical, unilateral, and combative.

For most of its colonial history, the Native Hawaiian community has had a contentious

relationship with the U.S. military. The situation with Kaho'olawe was no exception.

Kaho'olawe came under formal military control following the bombing of Pearl Harbor.

At this time, the U.S. government declared martial law throughout Hawaii. As a result,

Kaho'olawe was designated as a bombing range (Kaho'olaowe Island Reserve Commission,

2013). In 1953, President Dwight D. Eisenhower formally transferred the title for Kaho'olawe to

the U.S. Navy. Although World War II had ended, military testing on the island continued due to

growing fears amongst military leadership over the emerging Cold War with the Soviet Union.

The U.S. military would continue to use Kaho'olawe, the sacred home of Kanaloa, as a bomb-

testing site from the 1950s until the 1990s. For over two centuries, Kaho'olawe had been abused

and mistreated by farmers and the U.S. military.

After decades of being damaged, destroyed, and violated, interestingly, the story of

Kaho'olawe changed dramatically once the federal government returned the island to the State of

Hawaii in the 1990s. Rather than continue bombing and military training, and ignoring Native

Hawaiian concerns about the island, the State of Hawaii immediately took a community-based

approach for managing Kaho'olawe. The Kaho'olawe Island Reserve Commission (KIRC) was

created to oversee the island. Leaders from the Native Hawaiian community were appointed to

head KIRC. Thus, Kaho'olawe's history can be broken into two distinct periods; one period

where the island was under U.S. federal and military control and relationships with the Native

Hawaiian community floundered, and a later period where the State of Hawaii took over and

community collaboration flourished. This then begs the question, what led to the changes in how

Kaho'olawe was managed and cared for, and why has the State of Hawaii taken such a

drastically different course of action than the U.S. government?

Part of the change in Kaho'olawe's fortunes can be attributed to activism and a growing social consciousness on the part of Native Hawaiians. Not surprisingly, the treatment of Kaho'olawe did not sit well with Native Hawaiian activists who consider Kaho'olawe and all Hawaiian land (i.e. "Aina") to be sacred. The disrespect and desecration of Kaho'olawe would not continue without a fight. However, it would take time for the Native Hawaiian movement to gain the necessary momentum. Although Kaho'olawe had been bombed throughout the 1950s and 1960s, it was not until the late 1960s/early 1970s that Native Hawaiian activism became united and focused around land rights issues.

The movement to save Kaho'olawe grew out of the protest movements of the 60s and 70s. Prior to Kaho'olawe, most Native Hawaiian activists were concerned primarily with economic and social justice, and less focused on the land/Aina and environmental issues. However, starting in the 1970s, a new spiritualism and awareness of the land and environment began to emerge. Native Hawaiian activists, most notably the group Protect Kaho'olawe Ohana (PKO), began engaging in protests, lawsuits, and occupations over the treatment of the island (Kaho'olawe Island Reserve Commission, 2013). Over time, the protests and litigation initiated by Native Hawaiian activists began to gain ground. The constant hassle of federal lawsuits and island occupations proved costly and troublesome for the U.S. government. In addition to the protests and litigation, the global political climate began to change in the 1990s. Most notably, the Cold War came to a close. The U.S. government could no longer justify occupying Kaho'olawe and using it as a military testing range in the face of the disputes that resulted from it and the changing world dynamic.

In addition to activism, historical and political context played a critical role in the story of Kaho'olawe. The early 90s proved to be a critical turning point for Kaho'olawe. A series of

events following the end of the Cold War would change Kaho'olawe's fortunes for the better. After years of litigation, conflict, and protest, President George H. Bush finally ordered a cessation to the bombing on Kaho'olawe. In 1993, Senator Daniel K. Inouye of Hawaii sponsored Title X of the 1994 Department of Defense Appropriations Act, which authorized the return of Kaho'olawe back to the State of Hawaii. Soon after, in 1994, the U.S. Navy formally conveyed the deed of ownership of Kaho'olawe to the State of Hawai'i (Kaho'olawe Island Reserve Commission, 2013). In 1994, Kaho'olawe was formally returned to the State of Hawaii, to be held in a trust for the day that the Native Hawaiians would create a federally and State of Hawaii recognized sovereign nation (M. Richardson, PBS Hawaii Community Roundtable, May, 2015). Returning Kaho'olawe to the State of Hawaii has proven to be positive overall. Almost immediately after Kaho'olawe was handed over to the State of Hawaii, the planning and management of the island improved. The State of Hawaii and its various agencies have maintained better relationships with the Native Hawaiian community than the U.S. military or the federal government.

Besides activism and historical context, the politics and culture of Hawaii have also been a factor. While the planning and management of Kaho'olawe during the U.S. military occupation would be characterized as non-democratic, the later working relationship between the State of Hawaii and the Native Hawaiian community would be characterized as an exemplar of equitable planning practices. The main reason for this change is because local and state officials in Hawaii have a better understanding and awareness of the Aina, including Kaho'olawe. Today, Kaho'olawe is under the protection and management of the KIRC, a State-sponsored commission that maintains regular contact with activists and representatives from the Native Hawaiian community.

KIRC is an exemplar of multicultural, inclusive, and collaborative planning practices. The Hawaiian State Legislature created KIRC to manage Kaho'olawe while it is held in trust for the future Native Hawaiian sovereign entity. Duties of KIRC include establishing policies and controlling uses, coordinating environmental restoration of the island preserve, and perpetuating Native Hawaiian cultural customs, beliefs, and practices (Kaho'olawe Island Reserve Commission, 2013). The commission that governs KIRC is comprised of one member selected by the Governor of the State of Hawaii, who selects from a list submitted by Native Hawaiian organizations, a representative of the Office of Hawaiian Affairs, the Chair of the Board of Land and Natural Resources of the State of Hawaii, a representative of the County of Maui, a representative from PKO, and two members selected by the Governor from a list submitted by PKO. The Governor selects the Chair of KIRC from among the appointed commission members (Kaho'olawe Island Reserve Commission, 2013). Thus, KIRC is not a government agency that interacts symbolically with the Native Hawaiian community, but rather, KIRC is a government agency that is run by Native Hawaiian community leaders. Moreover, the ultimate goal of KIRC and the State of Hawaii is to return Kaho'olawe back to the Native Hawaiian people.

What makes Kaho'olawe's story unique is that it will be one of the rare instances where land taken away by the U.S. government will be returned to an indigenous people. Currently, Native Hawaiian community leaders are attempting to create a governing entity recognized by the State of Hawaii, the federal government, and by Native Hawaiians. Kaho'olawe would be one of the first places that would be under the formal legal stewardship of the Native Hawaiians (J. Waihee, PBS Hawaii Community Roundtable, May, 2015). However, the process of transitioning Kaho'olawe back to the Native Hawaiians is not without its complications.

While Kaho'olawe being returned to the Native Hawaiian people can generally be regarded as a positive story, the physical state of Kaho'olawe is still unfit for habitation. To date, over $400 million has been spent on the removal of unexploded ordinance (i.e. bombs) and other military debris left behind after decades of military target practice (M. Richardson, PBS Hawaii Community Roundtable, May, 2015). However, the federal government has not put forth any effort to clean Kaho'olawe since 2004. As the federal government and U.S. Navy have pulled back their cleanup efforts, the State of Hawaii, KIRC, and community volunteers have picked up the slack. Despite the money and time spent to clean Kaho'olawe, the island is still dotted with unexploded ordinance.

Regardless of the condition of the island, by statute, the State of Hawaii will transfer the island of Kaho'olawe to the Native Hawaiian governing entity once the State of Hawaii and federal government formally recognizes that entity (M. Naho'opi'i, PBS Hawaii Community Roundtable, May, 2015). Community leaders fear that the responsibility of cleaning Kaho'olawe will be shirked from the federal government onto the Hawaiian people. Thus, the optimism of seeing sovereign Native Hawaiian land is tempered by the fact that the federal government has not honored their obligation to clean the island, that the island is still unfit for inhabitation, and the big question of who will clean the island. The story of Kaho'olawe is still being written, with an uncertain future ahead.

Due to the rare situation of the federal government returning land to an indigenous people, the impact of community activism, unique cultural and historical context, and the collaborative planning practices employed by KIRC, the story of Kaho'olawe makes for an informative case study. Part of Kaho'olawe's story is how activism, conflict, and surprisingly lawsuits, ultimately led to more community-based and inclusive planning practices. Moreover,

the combination of protests and lawsuits ultimately pushed the U.S. federal government and Department of Defense (DOD) out of Kaho'olawe. Finally, the historic context of the Cold War coming to an end, as well as the political dynamic of the federal government and Hawaii in the 90s played a critical role in the U.S. Navy returning Kaho'olawe to the State of Hawaii.

Today, KIRC and its community-based approach to the planning and stewardship of Kaho'olawe serve as an exemplar of equitable and collaborative planning practices. However, with a diminishing trust fund, uncertain funding from the State of Hawaii and donations, and 70% unexploded ordinance remaining on the island, Kaho'olawe faces many challenges. Kaho'olawe not only stands as a testament of the effectiveness of collaborative planning principles, but also as a test case study for the sustainability of these very principles going into the future.

a. Early history

To the early Native Hawaiians, Kaho'olawe was known as Kanaloa. The Hawaiians believed Kaho'olawe to be the body form and center for Kanaloa, the Hawaiian god of the Ocean. Having navigated across the Pacific, the Polynesians were deeply connected to the ocean. As the spiritual home of the god of the Ocean, Kaho'olawe held special importance. Kaho'olawe was the place early Hawaiians went to learn about Kanaloa, to immerse themselves in Kanaloa. As such, the island of Kanaloa, later known as Kaho'olawe, was used for religious ceremonies and training early Hawaiian ocean navigators (D. McGregor, PBS Hawaii Community Roundtable, May, 2015). Kaho'olawe was and is still a significant place for Hawaiian spiritualism, culture, and history.

The Native Hawaiians have an extended history on Kaho'olawe. Based on archaeological studies, it is believed that approximately 800 Native Hawaiians had regularly lived on the island.

Kaho'olawe is only seven miles from Maui, so it is a close connection for fishermen traveling

between the islands of Maui, Lanai, and Molokai. Early Hawaiians would go back and forth

between Maui and Kaho'olawe, establishing fishing villages along the coast of Kaho'olawe.

Besides fishing, there is also evidence of religious and worship sites, and longstanding homes.

To this day, many cultural and sacred sites are still in in tact on Kaho'olawe as if people just

walked away from them yesterday (M. Naho'opi'i, PBS Hawaii Community Roundtable, May

2015). Even after decades of military bombing and subsequent clean up efforts, one can still find

remnants of the early Native Hawaii inhabitants, such as early tools (M. Naho'opi'i, PBS Hawaii

Community Roundtable, May 2015). However, Kaho'olawe is more than a monument to early

Hawaiian history. From the first sojourners to this day, Kaho'olawe is a place of worship for

Native Hawaiians.

Kaho'olawe was and is a sacred place. In general, Native Hawaiians believe that it is

their responsibility and duty to take care of the Aina (i.e. the Land). "Aloha Aina" translates

loosely to "Love the Land". Love of the Land has been a fundamental belief for Native

Hawaiians. However, in addition to love of all land and the environment, Kaho'olawe has an

extra special spiritual importance. There are remnants of spiritual signs and places of worship

throughout the island. At the top of the Kaho'olawe is a pohaku stone known as Pokaneloa.

Throughout the island are petroglyphs, many of which are still untranslated or decoded. It is

believed that the Hawaiian demigod Kana would travel to Kaho'olawe to meet the sun.

Kaho'olawe is still believed by many to be a portal (D. McGregor, PBS Hawaii Community

Roundtable, May 2015). Throughout history, Kaho'olawe was considered to be a place of

worship and was treated as such by early Native Hawaiians. It was not until non-Hawaiian

colonists arrived that the island began to be used for industrial and commercial agricultural purposes.

European and American colonists did not understand the spiritual and cultural significance of Kaho'olawe. In the 1800s, farmers from nearby islands began using Kaho'olawe for livestock. After the earliest European colonists arrived, Kaho'olawe was used as a ranch, with goats and sheep grazing all over the island. The grazing continued unabated for over 100 years. Eventually, the goats and sheep eventually got loose and pretty much ate all of the vegetation (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). In addition to farming, European settlers used Kaho'olawe for other non-ceremonial purposes. Most notably, during the late 19th century, Kaho'olawe was used as a penal colony (Pedro, 2007). The European and American colonists viewed and treated Kaho'olawe as anything but sacred. Kaho'olawe was understood as something to be used, rather than a sacred place to be cared for. However, matters would only get worse for Kaho'olawe and the Native Hawaiian people. As troublesome as the commercial agricultural grazing and penal colony were for Kaho'olawe, the ultimate desecration would come after the U.S. government and military annexed Kaho'olawe.

b. Negative impacts of Kaho'olawe being taken by the federal government

The situation worsened for Kaho'olawe once the U.S. military began to treat the island as a military asset. Starting in the late 1930s, the U.S. Navy began to use Kaho'olawe for early military testing (Pedro, 2007). Following the bombing of Pearl Harbor, the military declared martial law and the U.S. Navy took over complete control of Kaho'olawe (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Martial law provided the Navy exclusive access over Kaho'olawe for emergency military training practices (Pedro, 2007). From the beginning of World War II until the early 1990s, Native Hawaiians could no longer gain access to Kaho'olawe

146

for religious and cultural ceremonies. The bombing escalated in 1953 with the emergence of the Cold War. At this time, President Dwight D. Eisenhower issued an executive order that placed Kaho'olawe under the official jurisdiction of the Navy. From 1953 until 1994, Kaho'olawe was used regularly for naval and military explosives training (Pedro, 2007). For Native Hawaiians, the grazing and bombing of Kaho'olawe, home of Kanaloa, was a horrible situation. Turning the sacred island into a bombing range was unthinkable and illustrated the U.S. government's complete disregard for Native Hawaiian concerns and beliefs.

The negative impacts of U.S. colonization on Kaho'olawe are immeasurable. In total, following the colonization/annexation of Hawaii, Kaho'olawe experienced 200 years of devastation from grazing and bombing. The decades of grazing resulted in goats eating most of the vegetation on the island (M. Naho'opi'i, PBS Hawaii Community Roundtable, May, 2015). From the end of World War II until the early 1990s, the U.S. Navy bombed Kaho'olawe continuously. After the Navy was done bombing, 25% of the island was denuded of plants and the entire island was covered in unexploded ordinance. Unexploded ordinance also littered the surrounding waters. There was little to no earth wildlife or foliage left. The bombing damaged the soil, leaving behind hardpan erosion (a clay rich decomposed rock). Among the damages is a large crater that was caused by 500 tons of TNT. Over 40 years of military training had left the island in an uninhabitable state (Pedro, 2007). Kaho'olawe, the sacred home of Kanaloa, was damaged, defaced, and desecrated by the United States government.

c. The DOD/federal government's combative and hierarchical planning

After taking control of Kaho'olawe, the U.S. Department of Defense (DOD) took a hard line stance regarding the island and Native Hawaiian concerns. For most of the time that Kaho'olawe was under federal control, the DOD took a conflict-based hierarchical and unilateral

approach when it came to decision-making for the planning of the island. In other words, there were no attempts at discourse or collaboration with the community, especially the Native Hawaiian community. Furthermore, the U.S. Navy made no effort to employ officers who would be sympathetic, let alone empathetic, to Native Hawaiian concerns. For most of the Navy's occupation of Kaho'olawe, the commander of the island was usually somebody not from Hawaii and definitely not Native Hawaiian. Thus, the Naval commander tasked with addressing community concerns regarding Kaho'olawe would be somebody who knew nothing about Hawaii or Hawaiian culture (M. Naho'opi'i, Personal Communication, September 19, 2014). In the absence of any meaningful discourse or dialogue between the U.S. government and the Native Hawaiian community, Kaho'olawe was doomed.

In the absence of any meaningful dialogue, discourse, or engagement, Native Hawaiians began pushing back against the federal government. Community activists protested, including occupying Kaho'olawe on several occasions. Along with protesting the treatment of Kaho'olawe, throughout the 70s and 80s, Native Hawaiian community activists sued the Navy based on the National Environmental Protection Act and the American Indian Religious Freedom Act (M. Naho'opi'i, Personal Communication, September 19, 2014). The period from the early 70s until the late 80s was one marked by Native Hawaiian activists fighting back against the U.S. government over the desecration of Kaho'olawe.

The federal occupation and possession of Kaho'olawe was not an exemplar of collaborative and inclusive planning practices by the U.S. government. Rather than work with or empower the Native Hawaiian community, the Navy routinely disregarded cultural and spiritual beliefs and practices. However, the Native Hawaiians would not take this disrespect lying down. In response to the disrespect for Native Hawaiian traditions and the desecration of Kaho'olawe,

community activists fought back in the form of protests, occupations of the island, and federal lawsuits. Yet, despite the conflict over Kaho'olawe, by the early 1990s, going into the 21st century, everything began to turn around for Kaho'olawe. What happened?

In the early 90s, the U.S. government returned Kaho'olawe to the State of Hawaii. Today, the State of Hawaii sponsored Kaho'olawe Island Reserve Commission routinely engages and works with the Native Hawaiian community. Currently in a trust, Kaho'olawe will eventually be returned to the Native Hawaiian people, making it one of the rare instances where land taken away from the federal government will be returned to an indigenous people. Thus, the formerly combative and hierarchical planning of Kaho'olawe under the federal government has been replaced by a collaborative, multicultural, and progressive approach by the State of Hawaii. What happened to change the story of Kaho'olawe from one of conflict and exclusionary planning to one of collaborative, multicultural, and inclusive planning? Why did the planning approach of Kaho'olawe change, and how and why does the State of Hawaii maintain collaborative, multicultural, and inclusive planning practices?

2. Key Findings and Analysis

The purpose of this study was to find out how and why the historic return of Kaho'olawe to the State of Hawaii and eventual return to the Native Hawaiian people came to be, how collaborative planning practices operate in a real policy and planning contexts, and discuss potential lessons learned that may be applied outside of Kaho'olawe to other contexts. Given the fact that the study was interested in how and why policy and planning practices operate in a particular historic, cultural, and regional context, an ethnographic field study approach was most appropriate. The study utilized a variety of information sources, including, interviews, community meetings, panels, field observations, and document and video research.

Information was obtained primarily from key informants via interviews, field observations of community meetings and events, and an "Insights on Hawaii PBS" roundtable discussing the past and future of Kaho'olawe. Michael Naho'opi'i, Executive Director of the Kaho'olawe Island Reserve Commission (KIRC), was the primary interview informant. A former U.S. Navy Officer, Naho'opi'i was in charge of Kaho'olawe during the conveyance of the island from the federal government back to the State of Hawaii. The information, insights, and thoughts provided by Naho'opi'i were of immeasurable value.

In addition to the meeting with Naho'o'pi'i, field observation data was obtained at community events. Community events observed included a Maui town hall meeting concerning KIRC's long range plan, a volunteer and staff clean up of the KIRC boathouse in Kihei, and an informational Mahina'ai Night event designed by KIRC to raise awareness of Kaho'olawe. The actions and behavior observed at the community events illustrated many of the collaborative and community-based planning practices employed by KIRC. Besides field observations, the community events also included some critical information via presentations, of which the audio was transcribed and then analyzed.

Additional narrative information, which was then transcribed and analyzed, was also obtained from a PBS Hawaii roundtable, which featured a panel of key figures that were involved in Kaho'olawe's past, present, and future. Panelists on the PBS Hawaii roundtable included: Davianna McGregor, ethnic studies professor at the University of Hawaii at Manoa and the Co-Coordinator of the Protect Kaho'olawe Ohana (PKO), a nonprofit group that helps to steward the lands of Kaho'olawe; Governor John Waihee, chairman of the Kana'iolowalu, the Native Hawaiian Roll Commission, and the State of Hawaii's governor when the U.S. military handed over control of Kaho'olawe to the State of Hawaii in the 1990s; Michael Naho'opi'i,

Executive Director of KIRC; and Ian Lind, a writer and political analyst who was among the first people who occupied Kaho'olawe in 1976 in an attempt to stop the U.S. Navy from using the island for military practice. The open-ended questions by the panel moderator and the responses by the panelists served the same function as a semi-structured interview.

Due to issues of access and nonresponse, alternative information sources had to be identified creatively. Michael Naho'opi'i, KIRC executive director, responded immediately to the interview request. However, requests for other interviews were often redirected or did not receive a response. Thus, the presentations at community events and the PBS panel provided the desired open-ended and inductive information. Access to community events was much easier, and the open-ended multi-person PBS panel provided invaluable narrative information, which was transcribed, coded, and analyzed. Field observations and participation at community events also proved to be relatively easy, as they were meetings open to the public. Additional information sources included historical video on Kaho'olawe, KIRC newsletters, KIRC executive director reports, KIRC plans and presentations.

Information and data from key informants, panels, community events, and documents were coded and analyzed based on themes. Several themes began to emerge throughout the data collection and analysis process. While it would be encouraging to assume that the collaboration and deliberation surrounding Kaho'olawe came about due to a greater sense of compassion and awareness on the part of government and planning officials, ultimately, the turning point for Kaho'olawe came about due to community activism. The advocacy was empowered by federal statutes, such as the Environmental Protection Act and Religious Freedom Act, which allowed Native Hawaiian activists to file federal lawsuits against the U.S. Navy. However, while the activism and lawsuits were critical, much of the success behind the efforts to end the bombing on

Kaho'olawe was embedded in a unique historical and political context. While history has moved

on, some of the unique context behind the story of Kaho'olawe continues in the people, culture,

and institutions of Hawaii. Once the transition of the island back to the State of Hawaii was

initiated, multicultural translators, who could speak both to the Native Hawaiian community and

the government, helped facilitate the process. Now that Kaho'olawe has been returned to the

State of Hawaii, the Hawaiian government has taken a much more communal approach to

planning for the island, influenced greatly by the culture and spirit of Hawaii. KIRC is a

Hawaiian collaborative planning agency. Moreover, KIRC and the State of Hawaii's inclusive

and multicultural planning practices have benefitted all, supporting the claim that collaboration is

"rational" and societally beneficial, albeit based on an alternative and more normative

understanding of what is rational.

Table 4: Summary of Findings for Kaho'olawe

Findings	Theorists
Change initiated by activists	John Forester, Paul Davidoff
Federal laws/lawsuits equalized playing field	Iris Marion Young
Kaho'olawe embedded in a unique historical and political context	
Multicultural translators played critical role	Karen Umemoto, Seyla Benhabib
Uniqueness of Hawaii's political culture and institutions	
Kaho'olawe Island Reserve Commission is a tangible example of collaborative planning	Patsy Healy
Collaboration is the "rational" or societally beneficial option	Lawrence Susskind, Judith Innes, David Booher

Source: Analyst of theorists by Hiroshi Ishikawa

a. Impact of Native Hawaiian activism

First and foremost, the story of Kaho'olawe is one of Native Hawaiian community

activism. For Native Hawaiians, Kaho'olawe was more than just a political issue. It was the

home of Kanaloa, the Hawaiian God of the Ocean. Kaho'olawe was the place Hawaiians went to

learn about Kanaloa (J. Waihee, PBS Hawaii Community Roundtable, May, 2015). However,

the U.S. military did not respect the values and beliefs of the Native Hawaiians. Kaho'olawe was abused and misused by the U.S. military. In response, the Native Hawaiians fought back. Kaho'olawe would still be a bombing site or used for some other military purpose by the U.S. government if not for the efforts of Native Hawaiian activists. The Native Hawaiian community was locked out of the Kaho'olawe planning process and actively fought to make their voices heard. Native Hawaiian community leaders see the journey and fight for Kaho'olawe as a milestone in the Native Hawaiian social justice, land, and sovereignty movement

Kaho'olowe played a critical role in shaping the activist identity of the Native Hawaiian community. It was one of the first places where Native Hawaiian activists overcame their differences to come together to address issues that were of importance to all Native Hawaiians. Prior to the efforts to save Kaho'olawe, the Native Hawaiian movement was disjointed. Moreover, besides raising awareness about social issues that impacted all Native Hawaiians, the fight for Kaho'olawe was a spiritual awakening for many Native Hawaiians. Prior to Kaho'olawe, Native Hawaiian activism focused almost exclusively on social issues. Kaho'olawe connected many young Hawaiians to their spiritual heritage. By bridging spirituality with community activism, Kaho'olawe united and galvanized the Native Hawaiian community.

The late 60s/early 70s was when many Native Hawaiian activists came of age. It was at this time, spurned on by the social movements emerging around the country, that Native Hawaiian community leaders began to take action and address years of injustice perpetrated against the Native Hawaiian people. Interestingly, initially, Kaho'olawe was not a major issue for Native Hawaiian activists. While the damage done to Kaho'olawe throughout the 1950s and 60s was deeply disturbing to the Native Hawaiians elders, many of the younger members of the

Native Hawaiian community were not aware of Kaho'olawe's history and importance. Ian Lind, Native Hawaiian activist, recalls how little to no focus was placed on Kaho'olawe.

> "No one talked about Kaho'olawe. People talked about their issue with Hawaiian Homes Commission on their island. They talked about their antipoverty program and organizing in the housing. They talked about, they were trying to look for jobs or they were trying to work on healthcare"—Ian Lind, Native Hawaiian activist (I. Lind, PBS Hawaii Community Roundtable, May 2015).

Up until that point, many Native Hawaiians had little awareness of Kaho'olawe's spiritual and cultural significance. For many, up until the late 60s/early 70s, Kaho'olawe was just a bombing range (I. Lind, PBS Hawaii Community Roundtable, May 2015). However, a spiritual awakening by some key figures in the Native Hawaiian community would bring Kaho'olawe to the forefront of Native Hawaiian activism.

In the early 70s, Hawaiian community leaders Noa Emmet Aluli and Walter Ritte had an epiphany on Kaho'olawe. It was at this time that they went to the island and witnessed first hand the destruction done by the military. In the wake of the damage, both experienced a deep spiritual presence on Kaho'olawe (D. McGregor, PBS Hawaii Community Roundtable, May 2015). Prior to this visit, Aluli and Ritte had not been aware of the spiritual and cultural significance of Kaho'olawe. Aluli and Ritte realized that they needed to develop a deeper understanding of Kaho'olawe.

Following their initial visit to Kaho'olawe, Aluli and Ritte decided that they needed to consult with Hawaiian elders, or kupuna, about the island. Aluli and Ritte started by visiting kupuna, on Molokai. The kupuna on Molokai informed them that Kaho'olawe was not always known as Kaho'olawe. Kaho'olawe was once known as Kanaloa, and was believed to be the spiritual center of their ancestors. Following their meeting with the kupuna on Molokai, Ritte and Aluli went to Maui and spoke to kupunas "Uncle" Harry Mitchell and Hana, and then to the Big

Island of Hawaii to speak to "Aunt" Edith Kanakaole. Kanakaole told Ritte and Aluli that they should organize an extended family for Kaho'olawe and take care of the island as a member of that family. Instead of being community organizers in a western way, Kanakaole emphasized that the Native Hawaiian activists needed to embrace and love the island in a Hawaiian way (D. McGregor, PBS Hawaii Community Roundtable, May 2015). Following the epiphany on Kaho'olawe and the meetings with kupuna on the other islands, Aluli, Ritte, and other Native Hawaiian community activists realized that they needed to unite in order to save Kaho'olawe/Kanaloa from the fate it had suffered under the U.S. military.

The early 70s saw a marriage between the social consciousness that emerged in the late 60s across the nation with a newfound spiritual, cultural, and environmental awareness. It was at this time that Native Hawaiian activism began to shift their efforts to include land rights issues. Prior to 1975, the Native Hawaiian movement was concerned primarily with socioeconomic issues (J. Waihee, PBS Hawaii Community Roundtable, May 2015). Much of the early activist momentum for Kaho'olawe came out of the War on Poverty and the other social movements of the 60s. However, Aluli and Ritte's spiritual experience on Kaho'olawe, and their meetings with the kupuna, fundamentally changed Native Hawaiian activism (J. Waihee, PBS Hawaii Community Roundtable, May 2015). Aluli, Ritte, and other Native Hawaiian activists began to realize the importance of fighting not just for social causes, but also for the Aina/Land, including Kaho'olawe.

Along with Aluli and Ritte, the 70s saw other Native Hawaiian leaders embrace the fight for the Aina/Land. Most notably, the late "Uncle" Charles Maxwell was at the forefront of Native Hawaiian land rights at this time. Maxwell was the president of an organization known as Aboriginal Lands for Hawaiian Ancestry (ALOHA), which was advancing a bill in the U.S.

155

Congress for reparations for Native Hawaiian peoples (D. McGregor, PBS Hawaii Community Roundtable, May 2015). Along with Maxwell, activist Ian Lind was also working on Native Hawaiian land rights at this time. Lind was working with Kawaipuna Prejean, founder of the Hawaiian Coalition for Native Claims, an organization that was piggybacking with Native American groups on the mainland looking for reparations for past wrongs committed by the U.S. government against indigenous peoples (I. Lind, PBS Hawaii Community Roundtable, May 2015). Thus, a growing group of emerging Native Hawaiian activists were working on land rights issues. However, Hawaiian activists, such as Aluli, Ritte, Maxwell, Prejean, and Lind were all working for the Aina/Land, but not together. Something was needed to unite the various strands of Native Hawaiian land rights and social justice activism.

Interestingly, 1976 would prove to be a turning point for the emerging Native Hawaiian activist movement. The late "Uncle" Charlie Maxwell wanted to use the American Bicentennial in 1976 to show America what was really happening on Hawaii (I. Lind, PBS Hawaii Community Roundtable, May 2015). Maxwell and other community activists wanted to show that, contrary to the image in popular culture at the time, Native Hawaiians were not all happy sitting on the beach, playing ukulele, surfing, and singing and dancing for the tourists. Native Hawaiians faced serious issues and concerns. While tourists only saw Hawaii as a paradise, Native Hawaiians were the highest on the welfare rolls and were overrepresented in the prison system on Hawaii. Maxwell wanted to raise awareness. The American Bicentennial was the perfect time to illustrate the hypocrisy of the "American Dream". However, timing alone would not be enough.

The Native Hawaiian movement needed a lighting rod to bring the community together. Kaho'olawe would play that role and the U.S. Bicentennial was a perfect time to illustrate the

156

hypocrisy of how the U.S. government had treated the Native Hawaiians. Uncle Charlie Maxwell felt that the Native Hawaiians needed their own Wounded Knee. The Native Hawaiians needed to make the kind of stand taken by the Native Americans at Wounded Knee (D. McGregor, PBS Hawaii Community Roundtable, May 2015). Kaho'olawe would be a platform to address multiple Native Hawaiian issues at once, including land rights claims. Intertwining social justice with land rights concerns made sense intuitively, but did not gain full steam until this time. Kaho'olawe provided a place for the Native Hawaiian movement to bring its many, previously disjointed, strands together.

Kaho'olawe brought the Native Hawaiian movement together by providing a common purpose. The goal of stopping the bombing allowed different groups and individuals within the movmement to overcome their differences (I. Lind, PBS Hawaii Community Roundtable, May 2015). Ian Lind was one of the first protestors to land on the shores of Kaho'olawe back in 1976. Lind was able to experience first hand the sense of family/Ohana and community fostered by Kaho'olawe. The night before the first landing, Lind recalls that activists had flown in from all over the State of Hawaii to get together and organize in a community center on Maui (I. Lind, PBS Hawaii Community Roundtable, May 2015). This type of unity had not been seen before.

Kaho'olawe provided the focal point that united Native Hawaiian activism in the 1970s. Lind, Maxwell, Prejean, and activists from around the State of Hawaii had made the decision to go to Kaho'olawe and occupy the island (I. Lind, PBS Hawaii Community Roundtable, May 2015). Occupying Kaho'olawe gave Native Hawaiian activists a platform to address a wide range of social, cultural, spiritual, land, and environmental issues. Moreover, occupying Kaho'olawe was an effective way to, not only raise awareness of the conditions that Native Hawaiians faced, but also to unite Native Hawaiians at the same time. The early experiences and

relationships built during the early Kaho'olawe protests would have a long lasting impact on Native Hawaiian activism.

The positive effects of the early Kaho'olawe protests have been long-lasting. Kaho'olawe was a training ground for Native Hawaiian activism. Many Native Hawaiian activists have spent time on Kaho'olawe or have gained knowledge from the Ohana that have spent time on the island (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). For instance, Protect Kaho'olawe Ohana (PKO), the primary community group formed by early activists fighting for Kaho'olawe, still serves in that role to this day. The roots of Native Hawaiian activism are planted firmly in Kaho'olawe. Moreover, the tactics employed by the PKO and other Native Hawaiian community leaders are still relevant today.

b. Surprising role of federal statutes and lawsuits as catalysts

A significant criticism of collaborative and deliberative theories is that they do not address social inequality. In other words, how can different groups come together and discuss planning and policy if there are barriers and unequal resources between these groups? While it is nice to assume that different groups will come together and deliberate and discuss their differences on equal footing, ultimately, some groups and interests have more money, political connections, and information than others. As a result, some interests will always be at an advantage, and conversely some at a disadvantage, in planning and policy forums and processes. If power and resource imbalances are not addressed, immigrants, women, minority groups, and the poor, will always be at a disadvantage at any attempt to deliberate and collaborative over land-use and natural resource planning.

One potential equalizer in the land and natural resource planning process is the federal lawsuit. While the lawsuits themselves are not examples of deliberative and collaborative

planning, without first addressing inequalities and injustices, discussion and collaboration will be nothing more than a symbolic exercise. Rather, the federal lawsuits, or the threat thereof, act as catalysts for more collaborative and deliberative processes. Federal lawsuits can act as an equalizer for marginalized groups in that they can help get them a seat at the table. Historically, federal statutes and lawsuits have aided disenfranchised groups from the Civil Rights Movement to Native American land and water rights disputes. Federal statutes and lawsuits have also played a critical role in the story of Kaho'olawe.

Ultimately, the efforts of Protect Kahoo'olawe Ohana (PKO) and other Native Hawaiian activists would not have gained ground without the backing of progressive federal laws. These federal laws were then used to support federal lawsuits filed against the Department of Defense (DOD) and the Navy in the U.S. Supreme Court. Most of the federal laws were passed and enacted in the 70s. During this time, the National Environmental Protection Act (NEPA), the Clean Water Act, and other federal legislation were drafted with the aim to protect the environment and natural resources. Additionally, many of these federal environmental laws were designed to protect poor and disenfranchised communities who had born the brunt of bad environmental and land use policies.

In particular, the passage of NEPA in 1970 was a game changer for many disenfranchised communities, including Native Hawaiian activists fighting for Kaho'olawe. NEPA was the first to address the social and environmental costs associated with land and natural resource planning decisions. Prior to NEPA, there were no environmental protection laws. The new federal legislation empowered communities addressing issues of environmental and social justice, including the Native Hawaiian activists fighting to protect the Hawaiian Islands, including Kaho'olawe.

NEPA was the primary driving force for Native Hawaiian lawsuits against the federal government. In response to decades of mistreatment of Kaho'olawe, and the Navy's unwillingness to implement NEPA standards on the island, PKO sued the Navy in 1976. In response to the lawsuit, the Supreme Court issued a consent decree requiring the Navy to comply with NEPA, including conducting an environmental impact study (EIS) of the effects that decades of military testing had on Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). The NEPA federal lawsuit got the ball rolling for changes on Kaho'olawe. However, NEPA was not the only piece of federal legislation that would prove critical to the efforts of Native Hawaiian activists.

In addition to NEPA, the National Historic Preservation Act, the American Indian Religious Freedom Act (AIRFA), and the Native American Graves Protection Act (NAGPRA), provided some much needed legal momentum for Native Hawaiian and other indigenous communities seeking to protect their ancestral land. The passage of the National Historic Preservation Act in 1966 required that NEPA EIS document all archeological sites. Kaho'olawe was dotted with archaeological sites. In addition to the National Historic Preservation Act, AIRFA, which was passed in 1978, granted indigenous peoples access to traditional areas for religious ceremonies and practices (M. Naho'opi'i, Personal Communication, September 19, 2014). As a result of AIRFA, Native Hawaiian activists were able to file additional lawsuits in order to gain access to Kaho'olawe for cultural and spiritual ceremonies. Later in 1990, the passage of NAGPRA would protect indigenous burial sites and artifacts (M. Naho'opi'i, Personal Communication, September 19, 2014). The passages of NEPA, the National Historic Preservation Act, AIRFA, and NAGPRA gave Native Hawaiian community leaders much needed leverage in their dealings with the U.S. government and Navy.

In response to the protests and lawsuits, and other factors, the DOD finally decided to move off of Kaho'olawe in the early 1990s. The lawsuits were producing bad press for the Navy (M. Naho'opi'i, Personal Communication, September 19, 2014). Moreover, the protests and lawsuits were time-consuming and costly for the DOD, especially with large military "assets", such as Kaho'olawe, becoming increasingly unnecessary in the face of the Cold War coming to an end. Thus, the DOD made the instrumentally rational decision to part with Kaho'olawe due to efficiency and financial reasons. It was at this time that federal legislation was formally drafted to return Kaho'olawe to the State of Hawaii. Title X of the Defense Appropriation Act of 1994 stated that the federal government would return Kaho'olawe to the State of Hawaii for religious, traditional, and indigenous practices (M. Naho'opi'i, Personal Communication, September 19, 2014). In 1994, Kaho'olawe was officially returned to the State of Hawaii, to be held in a trust for the day that the Native Hawaiian people would create a federally recognized sovereign nation (M. Richardson, PBS Hawaii Community Roundtable, May, 2015). Federal legislation and the lawsuits that they supported equalized the land use policy and planning field, and expedited the ending of the bombing on Kaho'olawe.

Federal lawsuits and activism are important parts in the Kaho'olawe story. The protests and lawsuits are obviously not examples of harmonious collaboration or deliberation. However, activism and federal lawsuits ultimately led to more collaboration and communication regarding the planning, management, and stewardship of Kaho'olawe. As a result of the federal lawsuits, even before Kaho'olawe was returned to the State of Hawaii, the federal government and the DOD began to take a much more inclusive and cooperative approach to working with the Native Hawaiian community.

Faced with drawn out and costly lawsuits, and bad press from protests, the U.S. Navy made the instrumentally rational decision to take a more collaborative approach to planning for and managing Kaho'olawe. Thus, federal lawsuits were able to transform the planning and management of Kaho'olawe from conflict-based and hierarchical planning to more communicative action and collaborative planning, a more normatively value-based rational choice (Innes and Booher, 2010; Habermas, 1981). Eventually, the bombing would stop and the island would be returned to the State of Hawaii. However, community activism, catalyzed by federal lawsuits, is not the only reason why the bombing ended and Kaho'olawe was returned. It is also important to acknowledge historical context. One must remember that a significant part of the story of Kaho'olawe happened in Hawaii during the early 1990s. The 1990s were a time of historic change on the federal and global level.

c. Historical, political, and cultural context

While the dedication of community leaders, and the impact of activism and federal lawsuits cannot be ignored, it is important to note that much of the success of Kaho'olawe can also be attributed to historical, political, and cultural serendipity. Kaho'olawe is one of the rare instances where land taken away from an indigenous people by the U.S. government was later returned. Part of the story is the determination and dedication of community leaders who fought hard to make their voices heard and to right a past wrong. These community leaders were aided by federal legislation and lawsuits that helped level the land use policy and planning playing field. Moreover, these community leaders were able to communicate to different interests and points of view. However, in addition to the dedication and effort of community leaders, the story of Kaho'olawe did not occur in a vacuum. Much of the outstanding outcomes associated with Kaho'olawe are due to a unique nexus of time, culture, and place.

The story of Kaho'olawe is embedded in global history. On one end, the desecration and destruction of Kaho'olawe can be traced to the end of the World War II and the beginning of the Cold War. It was at this time that the U.S. military first declared martial law on the Hawaiian Islands and eventually seized Kaho'olawe for military testing. Not coincidentally, it was during this time, the early 1950s, when the United States began stockpiling military assets. The bombing on Kaho'olawe is very much the result of U.S. federal Cold War politics and policies. However, just as the emergence of the Cold War signified how the U.S. government would treat Kaho'oalwe, several global and domestic events that occurred during the 1990s would change the political landscape in which decisions concerning Kaho'olawe were being made.

One of the significant historical changes that occurred in the early 1990s was the end of the Cold War. After two World Wars and decades of a Cold War with the Soviet Union, the public and U.S. government were ready for a change in military policy. Following Desert Shield in 1990 and the fall of Communism in 1991, the prevailing sentiment in the military and federal government was that there were not going to be anymore major wars. Desert Storm was supposed to be the last war with U.S. involvement, and domestic fears of terrorism abroad had not landed on the radar at this time (M. Naho'opi'i, Personal Communication, September 19, 2014). Historical events had made the maintenance of a bloated military industrial complex less necessary and harder to justify.

After Desert Storm, and the fall of the Soviet wall and the end of the Cold War, the idea of maintaining Cold War resources, stockpiles, and funding seemed unnecessary. By 1993, the draw down began and the U.S. government began decreasing the size of the military (M. Naho'opi'i, Personal Communication, September 19, 2014). It was during this period that the

Clinton Administration would make significant changes to the U.S. military, which would in turn affect Kaho'olawe's fortunes.

In contrast to the military buildup that occurred during the Reagan era, the Clinton Administration began reducing the size of the military. It was during the early 1990s when the Clinton Administration shifted money away from manpower and weapons systems, started to slowly get out of specific regions that were once considered essential for military purposes, and cleaned up and closed down numerous military bases (M. Naho'opi'i, Personal Communication, September 19, 2014). The reductions in the military infrastructure had far-reaching effects, including Kaho'olawe. Certain military assets were no longer necessary during a time when there were no pressing wars or conflicts. Thus, the federal government and Navy no longer needed to use Kaho'olawe as a bomb and weapons testing range. However, despite Kaho'olawe no longer serving any strategic purpose for the U.S. military, a little extra incentive was still needed to officially end the bombing on the island.

Besides the end of the Cold War, another critical piece of political and historical context that helped expedite the U.S. military getting out of Kaho'olawe was the race for a U.S. Senate seat in Hawaii. Surprisingly, an aspiring Republican Senator played a key role in stopping the bombing on Kaho'olawe. In the early 1990s, U.S. Representatives, Pat Saiki, a Republican, and Daniel Akaka, a Democrat, were in a political fight for the recently deceased Spark Matsunaga's U.S. Senatorial seat. Hawaii was and still continues to be a heavily Democratic state. Senator Matsunaga was a long time and much beloved Democratic fixture in Hawaiian politics. Matsunaga's passing presented the Republicans a rare opportunity to gain some headway in the State of Hawaii.

In order to help Hawaii secure a Republican seat, Pat Saiki, a well-connected local Congresswoman, reached out to U.S. President George H. Bush. Partially as a political favor to Saiki, President Bush signed the Executive Order that stopped the bombing on Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Ultimately, Akaka would win the Senate seat, but Saiki still played a critical role in the history of Kaho'olawe. The presence of Saiki and other sympathetic Republicans in Hawaii not only speaks to the unique political context of Hawaii, but it also speaks to how different the political landscape was in the 1990s versus today.

The 1990s were a particularly favorable era for Native Hawaiian activists and land rights issues in the State of Hawaii and on the federal level. Protect Kaho'olawe Ohana (PKO) and other Native Hawaiian activists had support from several key legislators in the federal government during this time. On the federal level, the House, Senate, and the President/Administration were all Democrat and sympathetic to indigenous peoples issues. It was during this time that President Clinton signed a bill formally apologizing to the Hawaiian people for the illegal overthrow of the Sovereign Hawaiian Kingdom. The Administration was sympathetic to Native Hawaiian causes, including Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Furthermore, the Hawaiian Federal Congressional delegation at the time, which included Senators Daniel Inouye and Daniel Akaka, was not only supportive of Native Hawaiian issues, but also had significant political clout in the U.S. Congress.

Hawaii was fortunate enough to have two highly respected and dedicated Senators in the U.S. Congress during the 1990s. Following the cease-fire on Kaho'olawe, the federal government was still trying to figure out what exactly to do with the island. At this time, Senator

Daniel Inouye and newly elected Senator Daniel Akaka created the Kaho'olawe Island

Conveyance Commission bill. The Conveyance Commission's job was to help figure out what to

do with Kaho'olawe now that the bombing had stopped and the Department of Defense (DOD)

no longer needed to continue occupying the island. One of the tasks of the Commission included

making recommendations on how to return Kaho'olawe to the State of Hawaii (M. Naho'opi'i,

Personal Communication, September 19, 2014). The Conveyance Commission bill was just the

beginning for Senators Inouye and Akaka.

Due to the strength and dedication of the Hawaiian Federal Congressional Delegation,

landmark legislation that helped redress past wrongs committed against the Native Hawaiian

people was passed. Most notably, Senator Dan Inouye helped orchestrate and move forward Title

X of the Defense Appropriation Act of 1994, which returned Kaho'olawe to the State of Hawaii

(M. Naho'opi'i, Personal Communication, September 19, 2014). As a senior Senator, Inouye

had significant influence in Congress. Furthermore, Senator Inouye was also savvy at attaching

riders to bills that would designate money for Hawaii, including Kaho'olawe. Although the title

of a bill could not specifically say "Hawaii", Inouye was effective at making sure that the

programmatic money would be spent in Hawaii (M. Naho'opi'i, Personal Communication,

September 19, 2014). The impact and influence of Senator Inouye on Native Hawaiian issues

and concerns, such as Kaho'olawe, cannot be underestimated.

Senator Daniel Inouye was an exceptional advocate for the State of Hawaii, Hawaiian

culture, and Native Hawaiian issues. Even after the Clinton Administration, Senator Inouye was

able to work with Senator Ted Stevens from Alaska to get Kaho'olawe and other indigenous

peoples funding (M. Naho'opi'i, Personal Communication, September 19, 2014). When

discussing the uniqueness of the Hawaiian political culture and context, a big part of Hawaiian

politics for decades was Senator Dan Inouye. Inouye was one of the greatest champions for Kaho'olawe. Much of the early federal funding for Kaho'olawe hinged upon Senator Dan Inouye (M. Naho'opi'i, PBS Hawaii Community Roundtable, May, 2015). Senator Inouye was one of many legislators from the State of Hawaii who understood the importance of the history and culture of Hawaii, including Kanaloa/Kaho'olawe. Moreover, Inouye had the political influence and political capital to do something about it. Thus, the passing of Inouye and the retirement of other Hawaiian political leaders in recent years have severely diminished the influence that the Hawaiian Federal Delegation has over federal politics.

It is important to remember that the "success" of the Kaho'olawe story in the 1990s and early 2000s was embedded in a specific era of now long gone federal and Hawaiian politics. Kaho'olawe and the State of Hawaii no longer have the political capital that the late Senator Daniel Inouye and his peers were able to develop. The situation in the U.S. Congress is different today. Currently, the entire Hawaiian delegation is now junior (M. Naho'opi'i, Personal Communication, September 19, 2014). Furthermore, not only have the players changed since the days of Senator Inouye, the rules of the game have changed as well. Money can no longer be earmarked, via riders, for specific states as Inouye so skillfully once executed (M. Naho'opi'i, Personal Communication, September 19, 2014). However, perhaps the most significant factor is that federal politics has tilted more conservative in general.

Given the current state of the Republican Party and the Republican U.S. Congress, it is safe to conclude that Kaho'olawe probably would not find the same level of support amongst federal or Hawaiian Republicans today. The Republican Party in the early 90s was different than it is today. Back in the early 1990s, the Republicans were much more moderate (M. Naho'opi'i, Personal Communication, September 19, 2014). A moderate Republican such as Pat Saiki would

likely not be a Republican today. Moreover, as a heavily democratic state, Hawaii gets put on

the back burner whenever the federal Congressional leadership is Republican, as is the case

today (M. Naho'opi'i, Personal Communication, September 19, 2014). Thus, it is safe to

conclude that Kaho'olawe would likely meet a different fate in today's political climate.

Kaho'olawe's story is embedded in a complex political and historical context.

Besides global and Hawaiian political history, another critical factor in the story of

Kaho'olawe is the organizational culture and personalities involved with the U.S. Navy. The

U.S. Navy is the key military branch of relevance when it comes to Kaho'olawe. Kaho'olawe

was a "military asset" under the control of the U.S. Navy from the end of the Cold War until the

early 1990s. However, one must wonder how different the story of Kaho'olawe would have been

had the island been under the control of another military branch.

Historically, the Navy has employed a qualitatively different approach and philosophy

towards land use and natural resources in comparison to the other military branches, such as the

Army. In general, the Navy is less attached to land and holding onto land rights than the Army.

For instance, the Navy currently uses Open Ocean and electronic islands for current military tests

(M. Naho'opi'i, Personal Communication, September 19, 2014). If Kaho'olawe had been under

Army control, there is a chance that it would still be under Army jurisdiction as is the case with

other segments of the Hawaiian Islands. In fact, currently, Hawaiian activists are trying,

unsuccessfully, to regain land occupied by the U.S. Army in the Makua Valley.

The Makua Valley is an example of how difficult it would be to replicate the success of

Kaho'olawe in another time, place, or organizational context, even within Hawaii. Michael

Naho'opi'i, KIRC Executive Director, adamantly noted that the return of Kaho'olawe would not

have happened had it been under the control of the Army. The Makua Valley on Oahu is perhaps

a testament to Naho'opi'i's statement. Similar to Kaho'olawe, Makua Valley has been used for military testing for decades. Also similar to Kaho'olawe, there has been a great deal of conflict, protests, and lawsuits concerning the mistreatment of Makua Valley. Unlike Kaho'olawe, however, in the case of Makua Valley, there appears to be little hope that the land will be returned to the Native Hawaiian people. As Naho'opi'i noted, the Army is much more attached to holding onto land rights than the Navy (M. Naho'opi'i, Personal Communication, September 19, 2014). The Makua Valley is a testament to the Army's philosophy.

Native Hawaiians want access to the Makua Valley for religious ceremonies, but the U.S. Army is not budging on their stance of denying access and holding onto the land as a military asset. The land continues to be used as a military testing ground with no end in sight (M. Naho'opi'i, Personal Communication, September 19, 2014). Trying to build off of their past successes, Native Hawaiian activists are trying to use Kaho'olawe as a model but are not meeting with the same success in the Makua Valley. Much of the lack of success by the Makua Valley activists is due to the absence of certain critical factors that were present for Kaho'olawe. (M. Naho'opi'i, Personal Communication, September 19, 2014). As discussed, a significant factor is the difference in the philosophies between the U.S. Navy and the Army regarding land holdings and land rights. However, along with being held by different branches, Kaho'olawe and the Makua Valley exist in vastly different historical and political contexts. Twenty plus years later, the activists are not moving as far without having the momentum of the end of the Cold War, a Senatorial race to act as a catalyst, and senior Hawaiian-based federal leadership and political capital.

One must not forget that the "success" of Kaho'olawe is due in great part to a confluence of historical, political, and cultural factors that is unlikely to occur again, even within the State of

Hawaii. While not to downplay the importance of activism and federal lawsuits, stories such as Kaho'olawe often come embedded in once in a lifetime contexts. The end of the Cold War, a highly contested Senatorial race, well-established senior Hawaiian political leadership, and a more sympathetic military branch in the Navy, all helped facilitate a major breakthrough regarding Kaho'olawe. It is unlikely that this type of serendipity of political and historical events will ever occur again. However, the political and historical events did occur in a particular cultural context, which continues to influence the planning of Kaho'olawe to this day. All of these intervening factors came together in a unique place known as Hawaii, which stood in stark contrast to the culture of the federal government and military. Along with sympathetic federal legislators from Hawaii, Hawaiian state and local officials are also a significant part of the Kaho'olawe story. At the core of the collaborative planning practices implemented by the federal government during the transition, and later by the State of Hawaii, are a few key players who helped bridge across different ways of communication, knowing, and understanding.

d. Multicultural translators

Multicultural translators have helped Kaho'olawe transition from the federal government to the State of Hawaii, and continue to help plan and care for Kaho'olawe to this day. As noted by Karen Umemoto, multicultural translators help planners and other decision-makers better understand the cultural and epistemological differences that marginalized communities usually have with the traditional planning process. In sensitive cases such as Kaho'olawe, one cannot underestimate the impact and importance of having a multicultural translator (i.e. someone who can speak the language of multiple audiences) to help bridge different values, beliefs, and planning practices. Moreover, in sensitive situations such as Kaho'olawe, it is of utmost importance that the multicultural translators not only come from the disenfranchised

communities, as that experience and connection lends itself to greater sensitivity and credibility within the community, but that the multicultural translators are actually in the positions of power to bring about change.

Throughout the history of Kaho'olawe, Native Hawaiian leaders, who have been able to speak the language of the community but still speak to legislators and outside interests, have played a critical role in bringing about a more inclusive and multicultural planning process. Although not technically government planners, these community leaders and multicultural translators have played the roles of policymakers and planners in the management and stewardship of Kaho'olawe. Along with Charlie Maxwell, Walter Ritte, and Noa Emmet Aluli, there have been other key figures in the story of Kaho'olawe. Most notably, Michael Naho'opi'i, current Executive Director of the Kaho'olawe Island Reserve Commission (KIRC), was able to use his personal experiences, education, and training to facilitate the transition of Kaho'olawe from the Department of Defense (DOD) back to the State of Hawaii.

Naho'opi'i first visited Kaho'olawe in 1981 at the age of 15, a year after the consent decree was signed and the first public access to Kaho'olawe was granted in 1980. Thus, Naho'opi'i was one of the first Native Hawaiians to visit Kaho'olawe since the DOD had seized the island at the end of World War II. Furthermore, as part of a high school environmental science club known as the Huilama from the Kamehameha Schools, Naho'opi'i was part of one of the first groups of students to visit Kaho'olawe, (M. Naho'opi'i, Personal Communication, September 19, 2014). Naho'opi'i's early connection with Kaho'olawe would prove invaluable throughout his work on the island.

In addition to being one of the first Native Hawaiians and high school students to visit Kaho'olawe, Naho'opi'i is also a former Navy officer. Thus, Naho'opi'i's involvement with

Kaho'olawe as was a no brainer. In 1993, during the transition of Kaho'olawe back to the State

of Hawaii, Naho'opi'i was a submarine officer for the Navy. It was at this time that the Navy

was in the midst of a "celebration" of the 100-year anniversary of the overthrow of the Kingdom

of Hawaii. As the only Native Hawaiian on staff, Naho'opi'i was asked by his Naval superior

officers to make a presentation to the rest of the submarine staff. Specifically, Naho'opi'i was

asked to talk about the overthrow of the islands, key issues for Native Hawaiians at the time, the

Navy's role in Hawaiian affairs, and the overall historical context of the Hawaiian Islands in

military history. After his presentation, Naho'opi'i was asked to work for Navy Admiral Chuck

Larson. Admiral Larson was in charge of overseeing Kaho'olawe's transition from federal to

state control. Given the sensitivity concerning Kaho'olawe, the Navy wanted a Native Hawaiian

lieutenant midgrade line/command officer to help guide the process (M. Naho'opi'i, Personal

Communication, September 19, 2014). The previous Naval officer in charge of Kaho'olawe

community relations was someone from Hawaii, but not Native Hawaiian. While that officer

worked well with the community, the Navy wanted a Native Hawaiian officer to interact with the

Native Hawaiian community, particularly Protect Kaho'olawe Ohana (PKO), at the time of the

transition of Kaho'olawe back to the State of Hawaii.

As a Native Hawaiian officer in the U.S. Navy, Michael Naho'opi'i was in a unique

position. The Navy had limited options due to the lack of diversity in its officer core. At the time,

there were only three Native Hawaiian officers in the entire Navy. While the other two Native

Hawaiian officers were in their 40s and 50s, Naho'opi'i was in his late 20s. Thus, given his age,

experience with Kaho'olawe, and Naval rank, Naho'opi'i was the perfect candidate to liaison

with the Native Hawaiian community during the transition of Kaho'olawe. From 1993 to 1995,

Naho'op'i'i worked on the U.S. Navy Kaho'olawe transition team. After this experience,

Naho'opi'i left the Navy, but continued to work on Kaho'olawe as a contractor with the Navy contracted cleanup crew (M. Naho'opi'i, Personal Communication, September 19, 2014). Throughout his time in the Navy, Naho'opi'i always maintained his contacts within the Native Hawaiian community. At the same time Naho'opi'i was working on Kaho'olawe with the U.S. Navy, he was also actively involved with the PKO.

During his time on the U.S. Navy Kaho'olawe transition team, Naho'opi'i was also invited to formally join the PKO. The appointment with the PKO made sense since Nahopi'i's job was to serve as the liaison between the Navy and the PKO/Native Hawaiian community. Even after Naho'opi'i had left the Navy, he still remained active with the PKO. Having had greater access to Kaho'olawe than anyone in the general public, Naho'opi'i's knowledge and experience was invaluable to the PKO. While most PKO members were only allowed to visit Kaho'olawe once a month, Naho'opi'i was on the island continuously for three years. Thus, he had a detailed intimate knowledge of Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Furthermore, due to his education and experience as an engineer, Naho'op'i'i was able to collaborate and work with the scientists involved in trying to clean up the island. Naho'opi'i's experience and training, as well as his credibility with the U.S. Navy and other government stakeholders, were critical in advancing PKO's mission.

Michael Naho'opi'i is at a unique intersection between being Native Hawaiian, having been in the Navy, having technical knowledge and training, and having had direct hands on experience working on Kaho'olawe. As a multicultural translator, Naho'opi'i is able to speak the language of the scientists and experts, and then translate that information back to the Native Hawaiian community (M. Naho'opi'i, Personal Communication, September 19, 2014). Moreover, Naho'opi'i is more than just a translator. Having been appointed to key positions in

the U.S. Navy, the PKO, and the Kaho'olawe Island Reserve Comission, Naho'o'opi'i is in effect a policymaker, land and natural resource planner, and community leader. As a result of his experiences, training, and political influence, Naho'opi'i was able to transform mainstream planning institutions and practices to advance Native Hawaiian interests and values.

e. Uniqueness of Hawaii's political culture and institutions

When analyzing Kaho'olawe and the transferability of its lessons to other policy and planning contexts, one cannot downplay the distinctiveness of Hawaii's political culture and institutions. For instance, throughout the political history of Hawaii, Native Hawaiians have achieved a relative level of success and notoriety within Hawaiian local, state, and federal politics, particularly when compared to their mainland Native American counterparts. Most notably, former Governor of Hawaii John Waihee, former U.S. Senator Daniel Akaka, and former Lieutenant Governor Duke Aiona, are all of Native Hawaiian descent. Especially interesting in the case of John Waihee is that Waihee got his start as a community activist protesting the bombing on Kaho'olawe. In contrast to Hawaii, Arizona for instance, have yet to elect a Native American governor, or any federal-level Senators or Representatives. This then brings up the questions how and why is Hawaii so different than other states in the Union.

The most common explanation for the relative, albeit arguable[1], higher level of political integration of Native Hawaiians in the State of Hawaii political structure, is the uniqueness of Hawaiian culture and how that influences many different aspects of daily life. People from Hawaii often emphasize certain Hawaiian cultural beliefs and practices, such as the importance of Ohana/family, Aloha/friendliness, and kuleana/responsibility (M. Naho'opi'i, Personal Communication, September 19, 2014). These core Hawaiian beliefs are observable in all facets

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[1] I emphasize "relative" and "arguable" because the Native Hawaiian people are still politically disenfranchised as a whole, and thus the presence of a few successful Native Hawaiians in Hawaiian politics is not to suggest that Hawaii is a complete success story of political empowerment for the Native Hawaiian people.

of life when one spends any significant amount of time in Hawaii. Thus, one could conclude that these cultural beliefs, which emphasize openness and community, also influence how officials and agencies interact with the public, and how the public at large views and accepts Native Hawaiian people and culture (M. Naho'opi'i, Personal Communication, September 19, 2014). However, the distinctions in the political culture and behavior within the State of Hawaii do not stop with the influence of Hawaiian culture. In addition to the influence of Native Hawaiian culture, much of the unique political culture of Hawaii can also be explained by the formal legal relationship that the State of Hawaii has with the Native Hawaiian people.

A significant factor for the uniqueness of Hawaiian political institutions and policies as far as indigenous peoples is concerned, is due to how Native Hawaiians are recognized, or rather not recognized, by the U.S. government. Unlike other Native American tribes, Native Hawaiians are still not federally recognized. As federally recognized tribes, Native American tribes in California or Arizona, for instance, deal primarily with the federal government concerning land and water rights concerns. In other words, mainland tribes rarely, if ever, deal with local and state governments, other than as competing interests and stakeholders (e.g. the State of Arizona). Conversely, Native Hawaiians are regularly engaged with local and county government, and the State of Hawaii, due to the lack of federal recognition (M. Naho'opi'i, Personal Communication, September 19, 2014). Moreover, much of the relationship between the Native Hawaiian people and the State of Hawaii is legally mandated.

Unlike most states in the Union, relationships with indigenous peoples in the State of Hawaii are formalized in the Hawaii State Constitution. As part of this formal recognition, the State of Hawaii Constitution created and mandated Office of Hawaiian Affairs (OHA) is the agency tasked with addressing issues related to the indigenous population of Hawaii (i.e. the

Native Hawaiian people) (M. Naho'opi'i, Personal Communication, September 19, 2014). Other states on the mainland may have bureaus and commissions tasked with addressing Native American affairs, but nothing to the extent of the State of Hawaii and OHA. Rather, on the mainland, due to the federal recognition of most of the mainland tribes, a federal agency, the Bureau of Indian Affairs, performs the equivalent function that the OHA does on Hawaii. Therefore, due to the state-level recognition of Native Hawaiians and the creation of a state-sponsored office to deal exclusively with indigenous affairs in lieu of federal recognition, the State of Hawaii maintains a much more formalized collaborative working relationship with Native Hawaiians than other mainland states with their respective indigenous communities.

Within OHA, the State of Hawaii has different institutions, agencies, and planning processes to interact and work with the Native Hawaiian community. For instance, the State of Hawaii recently created the Aha Moku Advisory Committee to address issues of traditional Hawaiian land (M. Naho'opi'i, Personal Communication, September 19, 2014). In Hawaiian culture, traditional land is divided into sub-divisions or Mokus. The Aha Moku Advisory Committee is a State of Hawaii sponsored committee designed to work alongside traditional Native Hawaiian cultural practices.

In order to respect the stewardship of Hawaiian land, the State of Hawaii created the Aha Moku Advisory Committee to provide indigenous input and representation from each of the Mokus. There are eight Mokus total, each with their own council and council president. Each council president is appointed by the Governor of Hawaii and confirmed by the Hawaii State Senate. The council presidents sit on the Aha Moku Advisory Committee and provide information to the Hawaiian Department of Land and Natural Resources (M. Naho'opi'i, Personal Communication, September 19, 2014). Ultimately, the purpose of the Aha Moku

Advisory Committee is to care for and manage traditional Hawaiian natural resources, to seek community consultation, and to educate the public on traditional Hawaiian lands (Aha Moku, http://www.ahamoku.org). By observing how the Kaho'olawe Island Reserve Commission (KIRC) and the Aha Moku Advisory Committee operate, one can see how Hawaiian State agencies are not typical government agencies.

Many Hawaiian State agencies act more akin to community organizations than government agencies. In fact, there is often a seamless transition between community organizations and government agencies. For instance, the Moku or Advisory Council for Maui started as a community nonprofit, but was eventually plugged into the formal State of Hawaii Aha Moku Advisory Committee structure. Even though it is now part of the State-sponsored Aha Moku Structure, the Maui Moku still functions as a community organization in that it provides traditional knowledge, and works to ensure that there is a unified community voice, versus individual voices, advancing Native Hawaiian concerns over land use and the environment (M. Naho'opi'i, Personal Communication, September 19, 2014). Furthermore, as a grassroots organization, the Mokus provide input to not only the State of Hawaii, but also to local and county government, and to private developers (M. Naho'opi'i, Personal Communication, September 19, 2014). In essence, the Maui Moku is a community advocacy organization that also happens to be a state agency. Moreover, the community-based manner in which the Aha Moku system operates is somewhat the norm amongst many of the OHA-sponsored agencies.

Perhaps the most visible OHA-sponsored agency is the Kaho'olawe Island Reserve Commission (KIRC). Following the transfer of Kaho'olawe from the federal government back to the State of Hawaii, the State of Hawaii immediately created the KIRC. Although a State of

177

Hawaii-sponsored government agency, KIRC commissioners are appointed primarily from the Native Hawaiian and local Maui community. KIRC is designed to empower and work collaboratively with the community. Moreover, KIRC's working approach embraces and embodies many different Native Hawaiian values and beliefs.

f. The nuts and bolts of the KIRC and collaborative planning for Kaho'olawe

The Kaho'olawe Island Reserve Commission (KIRC) is an example of collaborative, inclusive, and multicultural land and natural resource management principles in praxis. In many ways, KIRC embodies the key principles of Adaptive Collaborative Management in that it strives to adapt and learn based on context and need, and that KIRC engages both local and non-local stakeholders in an all-encompassing participatory process (Buck, Geisler, and Schlas, 2001). KIRC is also a quintessentially Hawaiian organization in the values it strives to advance (e.g. love for the land/Aina) and the manner in which it operates (i.e. community-oriented). Despite KIRC's official status as a government agency, the staff and volunteers view the organization differently. In the words of Kui Gapero, KIRC Cultural Resource Project Coordinator, "KIRC is a governmental agency that operates as a community organization" (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Rather than taking a top-down approach to policy adoption and implementation, KIRC employs a bottom-up community-oriented approach (e.g. monthly community meetings, ongoing work with local schools, organizing volunteer clean up trips to Kaho'olawe, KIRC boathouse cleanups, Mahina'ai Nights, online survey) to advance its mission. Being connected to the community is critical to how KIRC adopts and implements land-use policy and planning for Kaho'olawe

Community outreach and engagement is a critical component to KIRC's efforts. Currently, one of KIRC's main outreach efforts is known as I OLA KANALOA, which

translates to "life to Kanaloa!" The year 2026 will commemorate 50 years since the first Native

Hawaiian activists landed on Kaho'olawe. In targeting the milestone anniversary, KIRC, Protect

Kaho'olawe Ohana (PKO), and the State of Hawaii, Office of Hawaiian Affairs (OHA), have

joined together to create a collaborative plan for the preservation, restoration, and protection of

Kaho'olawe (Source: Kaho'olawe Island Reserve Commission http://www.iolakanaloa.org).

Ongoing community outreach and feedback is a key component to the I OLA KANALOA

campaign.

Throughout 2014, KIRC, PKO, and OHA held several public community meetings in

order to obtain feedback on how to implement I OLA KANALOA, as well as provide

information on future plans for Kaho'olawe. I was fortunate enough to attend the September

2014 I OLA KANALOA meeting. The September 2014 meeting was held at the Lahaina Civic

Center on Maui. A total of twelve people were in attendance at this intimate community

meeting, including KIRC Executive Director, Michael Naho'pi'i, and Ke'eaumoku, head of the

PKO (Field Observation, KIRC Community Meeting, September 18, 2014). During the meeting,

Naho'opi'i presented information on the Kaho'olawe I OLA KANALOA 2026 Strategic Plan.

However, the meeting and presentation was not a "dog and pony show".

Critical to meaningful community engagement is meaningful discourse. The I OLA

KANALOA meeting that I attended was no exception. Members from the community were

encouraged to express honest opinions about Kaho'olawe and the I OLA KANALOA Strategic

Plan, and were not afraid to do so. Most notably, Ke'eaumoku addressed concerns about the

Navy's failure to completely clean up Kaho'olawe per the transfer agreement signed back in the

early 1990s (Field Observation, KIRC Community Meeting, September 18, 2014). Naho'opi'i

and other KIRC staff members took note of and responded to Ke'eaumoku's concerns. Along

with the frustration expressed by Ke'eaumoku, community members were actively participating throughout the I OLA KANALOA meeting. The small and intimate setting of the Lahaina Civic Center and the openness of KIRC staff appeared to encourage discussion amongst the attendees. However, the collaborative and community oriented approach of KIRC does not end with the I OLA KANALOA program. The I OLA KANALOA meetings were just one of many examples of how KIRC and the State of Hawaii regularly work to engage the local community in the planning, management, and stewardship of Kaho'olawe.

Community related events are at the heart of KIRC's activities. Besides the I OLA KANALOA meetings, KIRC regularly sponsors outreach, information, feedback, and volunteer events. For instance, throughout 2015, KIRC hosted a monthly community event at the KIRC Kihei boathouse, which coincided with the full moon of that month. The events were called Mahina'ai Nights. "Mahina" is the Hawaiian word for moon. "Ai" is the Hawaiian word for full. However, "Mahi" is also a contraction of the word "mahi'ana", the Hawaiian word for farming. Thus, "Mahina'ai" is the Hawaiian word for farming according to the moon cycle. The monthly event, in accordance with its definition, was used to educate the public on KIRC's continued efforts to restore Kaho'olawe. Furthermore, the Mahina'ai Nights were also used to educate the community on traditional Hawaiian agricultural and cultural practices (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Different KIRC staff would lead tours, and give talks and make presentations on everything from KIRC programs to Hawaiian cultural practices. I was fortunate enough to attend the Mahina'ai Night in July 2015.

By attending the Mahina'ai Night event in person, I was able to see firsthand how KIRC's community-oriented and collaborative efforts were strongly influenced by the Hawaiian spirits of Aloha and Ohana. Although KIRC is a governmental agency, which from personal

180

experience can operate in a rigid and hierarchical manner, hierarchy and structure are de-emphasized at KIRC events. For instance, at the July 2015 Mahina'ai Night event, KIRC Executive Director Mike Naho'opi'i was observed running around setting tables and waiting in line for his own food. There was no delegating work and nothing was beneath leadership staff. All of the staff and volunteers were pitching in and working equally. This was also the case at the I OLA KANALOA meeting and KIRC Kihei boathouse cleanup events that I attended. While these examples of a more egalitarian approach in and of itself might not seem that outstanding, it is in great contrast to my past experience working in government and for a local union.

Having worked and volunteered for other government agencies, unions, and nonprofits over the years, I have often seen executive directors and supervisors intentionally avoid certain types of manual labor. Menial tasks and manual labor were almost always delegated. Thus, the image of an Executive Director picking up tables and chairs, or getting his or her own food, as opposed to assigning an intern or junior staff to do such tasks, sets a tone that nobody is above anything. Despite his extensive resume, Michael Naho'opi'i will put in his work along with the rest of the KIRC staff and volunteers. Besides the benefit of boosting staff and volunteer morale, by maintaining a flat structure within the organization, KIRC is better able to take a more inclusive approach to working with the community. In other words, it is much easier to maintain flat and collaborative relationships with other organizations and stakeholders when the structure within an agency or organization is flat and collaborative.

For all intents and purposes, KIRC is a community organization. In fact, although legally and technically a government agency, due to constant concerns with lack of funding, KIRC operates similar to a 501(c)(3). For instance, KIRC seeks donations and does fundraising in order to help carry out its mission (M. Naho'opi'i, Personal Communication, September 19, 2014).

Furthermore, due to funding constraints, similar to nonprofits, KIRC relies heavily on volunteer support. In fact, the cleanup efforts on Kaho'olawe would not be possible without volunteers from the community.

KIRC and the volunteers that support its mission have picked up the gap left behind by the U.S. Navy. The community, families, students, and teachers have been providing a large part of the restoration work on Kaho'olawe (D. McGregor, PBS Hawaii Community Roundtable, May 2015). What is especially encouraging is how much the community has responded to working on Kaho'olawe. Currently, the waitlist to go to Kaho'olawe is over two years. It is important to note that the trips to Kaho'olawe are not fun trips or boondoggles. Volunteers spend about four to five days at a time working on the island (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). The work is difficult. However, due to their connection to KIRC and the spirit of Kanaloa, the community volunteers are deeply invested in saving and preserving Kaho'olawe.

Ultimately, having community members and volunteers working on Kaho'olawe serves a greater purpose. Besides fiscal necessity, the deeper motivation for involving volunteers from the community is to educate and connect people back to the land/Aina. As stated by Michael Naho'opi'i, KIRC and Hawaiian community leaders "want the people of Hawaii to participate in this healing…because…as they're healing the island…its transformative state that they heal themselves" (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). By working on the land, people develop a stronger connection to it. Working on the land is part of KIRC's broader community program.

In addition to the Kaho'olawe cleanup trips, the KIRC staff host volunteers at the Kihei boathouse to work on the land and learn about early Hawaiian culture. The Kihea boathouse cleanup program includes having volunteers from local schools. During the summer break,

students volunteer at the Kihei boathouse every Wednesday and Thursday. The students clean around the boathouse and learn about various aspects of Hawaiian agriculture and farming (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Besides the student support in the summer, volunteers come and help clean up around the Kihei boathouse on the last Saturday of every month. Due to the reduced number of visits to Kaho'olawe, the Kihei cleanups have taken on a greater importance for KIRC and its efforts to connect with the community (K. Gapero, KIRC Boathouse Cleanup, July 25, 2015). I had the opportunity to attend one of the Kihei boathouse cleanups in July 2015.

Along with the community meetings and events, such as the Mahina'ai Nights, the Kihei boathouse cleanups provide a unique educational experience. The work for the day consisted primarily of taking care (e.g. weeding, planting) of the main garden at the boathouse. It should be noted that the work was not easy. I arrived a little before 8am and worked continuously until noon. Although the weather was 78 degrees, the humidity made it feel closer to 100 degrees at times. However, I was not alone in my efforts. True to KIRC's flat community orientation, all of the staff members and volunteers put in equal amounts of hard labor. In other words, the staff did not sit idly while the volunteers worked. Although the long-term plan for all of this work is to plant traditional Hawaiian plants and vegetation in the garden at the Kihei boathouse, as is the case with all of KIRC's efforts, there is a deeper purpose behind this work.

Similar to the trips to Kaho'olawe, the work at the Kihei boathouse helps connect the KIRC staff and volunteers to the Aina. As Michael Naho'opi'i has stated on a few occasions, the hope is that by working on the land, people will develop a stronger connection to it (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Thus, the volunteer efforts on Kaho'olawe and at the Kihei boathouse are another example of how KIRC, despite being a

government agency by definition, is a community-based organization advancing Hawaiian values and beliefs. For many Native Hawaiians, they see it as their kuleana, or their privilege and responsibility, to care for the Aina/land, including Kanaloa/Kaho'olawe (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Naho'opi'i and the KIRC staffI can honestly say that the experience at the boathouse gave me an appreciation for the land that I have not had in some time. Moreover, based on the enthusiasm of the other volunteers, it is clear that the experience is a positive one for many. Most of the other volunteers were regulars. Similar to the community meetings and Mahina'ai Nights, the Kihei boathouse cleanup events provided an opportunity for KIRC staff and volunteers to connect and bond.

While a cynic might question the approach, KIRC's community-oriented, hands on, programs appear to be working. I enjoyed my time working at the Kihei boathouse. The experience gave me an opportunity to get to know KIRC staff and volunteers in a way that I probably would not have in a more formal setting. After four hours of work, the KIRC staff made lunch for the volunteers. The lunch was made onsite by KIRC staff and included hamburgers, local style sausages, white rice, and venison caught and butchered on Maui by one of the KIRC staff. The lunch was a typical local style plate lunch. Furthermore, the lunch was a gathering. Lunch provided a nice time for staff and volunteers to relax, eat, bond, and "talk story". The staff and regular volunteers appeared to know each well based on the detailed and personal nature of the conversations (Field Observation, KIRC Boathouse Cleanup, July 25, 2015). People were not just talking about the weather, but about their families, jobs, and other important aspects of their personal lives. Interestingly, the boathouse cleanups appeared to play a critical role in the social networks of the volunteers and KIRC staff, similar to the bowling leagues and other civic groups mentioned by Robert Putnam (Putnam, 2000). Moreover, as has

184

been emphasized throughout all of KIRC's events, one could definitely sense the spirits of Aloha and Ohana at the boathouse cleanup.

KIRC is using Kaho'olawe as an opportunity to raise awareness about environmental issues and to reconnect people to the Aina. Moreover, KIRC's community based approach serves as an example of the benefits of and the normative and value-based rationality behind collaboration. One cannot ignore how different KIRC, a government agency, and the State of Hawaii's approach to caring for Kaho'olawe is from the federal government's top-down management process. KIRC's multicultural approach has definitive benefits over the hierarchical and conflict-based approach of the U.S. government and military. Rather than engage in protests and lawsuits, the State of Hawaii, KIRC, and the people of Hawaii are working together in an ongoing discourse and developing communities of knowing. Communities are becoming empowered, the land is being cared for, and people are being reconnected to the Aina.

g. Benefits of collaboration versus conflict

Susskind and Cruikshank (1987), and Innes and Booher (2010), to name a few, contend that collaboration is the normative and value-based rational choice. According to Susskind, Cruikshank, Innes, and others, not all "rationality" is about individual economics and efficiency. Other forms of rationality (e.g. collaborative rationality) emphasize broader societal benefits and norms. Policy and planning does not have to be about "winners" and "losers". Moreover, conflict-based planning practices usually result in everyone being "losers" in the long run due to time and money wasted. There are more negatives associated with exclusive and combative planning processes. This was the case with the U.S. Navy and Kaho'olawe. The Department of Defense's (DOD) combative management approach resulted in protests, lawsuits, and wasted

185

time and money. Ultimately, even before handing over the island to the State of Hawaii, the DOD learned that a grassroots, community-based strategy, was preferable to continuing with the combative approach and bad press (M. Naho'opi'i, Personal Communication, September 19, 2014). After the transition of Kaho'olawe from the federal government to the State of Hawaii, officials with Hawaiian state agencies employed a much different philosophy. Partially in response to the failures of the U.S. government and Navy, the State of Hawaii has employed collaborative planning practices with clear-cut benefits.

The Kaho'olawe Island Reserve Commission (KIRC) operates in a communitarian fashion with commissioners appointed from the Native Hawaiian community and planning practices designed to engage the community. Whatever concerns the State of Hawaii may have with Kaho'olawe, including diminishing funding and unexploded ordinance, community conflict is generally not one of them. The benefits of the community-oriented and collaborative management of Kaho'olawe have been definitive for the State of Hawaii. Today, there are no more lawsuits and protests. The healing of the community and the Aina has begun.

As a result of working positively with the community, KIRC has been able to clean and repair parts of Kaho'olawe. Over the past twenty years, volunteers working on Kaho'olawe have cleaned part of the island to the point that it can be accessed safely. Moreover, these areas of redeveloped and cleared land can now be used for educational purposes and traditional practice. Interestingly, the lessons learned on Kaho'olawe are being applied to other regions. As the U.S. military has returned military training areas to local governments across the country, KIRC's community-based planning practices are serving as a "how to" for communities trying to reuse these areas (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Many, not just in the State of Hawaii, are learning and benefiting from Kaho'olawe. Kaho'olawe is becoming a

multi-faceted example of the normative and value-based rationality, and societal benefits, of collaborative planning.

Perhaps the biggest beneficiary of the State of Hawaii's collaborative and communitarian practices are the Native Hawaiian people. Kaho'olawe is one of the rare instances in U.S. history where land taken away by the federal government will be returned to an indigenous people. The State of Hawaii will keep Kaho'olawe in a trust until it is in good enough condition to be returned to the Native Hawaiian people. KIRC sees itself as trustees managing the island with the goal of putting the island in better condition than how they received it from the federal government. Ultimately, the hope is to clean Kaho'olawe to the point where people can live on it (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). The goal is to make Kaho'olawe a place where people can experience and learn about Native Hawaiian culture.

KIRC is restoring the environment on Kaho'olawe with the purpose of reintroducing cultural practices. The first Pacific Islanders traveling to Hawaii arrived on Kaho'olawe and adapted their Pacific voyaging traditions to what they saw in that environment. KIRC is trying to recreate the environment where Native Hawaiian culture evolved on Kaho'olawe. Rather than keeping the land pristine, the purpose is to restore the land for traditional indigenous culture. A significant part of this effort involves planting hardpan, replenishing traditional fish stock, and repairing damaged aquifers to facilitate traditional fishing, fish farming, and growing taro (M. Naho'opi'i, Personal Communication, September 19, 2014). By recreating the proper environment, KIRC envisions Kaho'olawe becoming the nexus of Native Hawaiian cultural practices and education. It is the hope that Kaho'olawe can serve as a center for various schools of learning where people can become masters in the field of Native Hawaiian cultural ceremony

(D. McGregor, PBS Hawaii Community Roundtable, May 2015). The hope is that all of the people of Hawaii will learn from and connect with Kaho'olawe

An ongoing benefit of having people visit, work on, and learn from places such as Kaho'olawe is that it fosters a long-term relationship with the land/Aina. Having people visit and work on the land is the integration of people and the environment for the purpose of maintaining the relationship between people and the environment (M. Naho'opi'i, Personal Communication, September 19, 2014). Even in its damaged state and limited capacity, the experience of going to Kaho'olawe has been invaluable for the Native Hawaiian community and volunteers in general. Native Hawaiian activist, Ian Lind, as already seen the positive results of having people visit, stay, and work on Kaho'olawe

> "It's an ongoing cultural education center that's already having a huge effect as you say. Generations now of the young activists are coming and performers and students are coming out of this with a new appreciation of where they live and who they are."—Ian Lind, Native Hawaiian activist (I. Lind, PBS Hawaii Community Roundtable, May 2015).

The benefits of returning Kaho'olawe to the community, and using it for educational and cultural purposes, far outweigh the limited and shortsighted benefits of using the island as a bombing range.

Perhaps the greatest benefit of the State of Hawaii and KIRC's community-based, collaborative, and multicultural planning practices is that they will start the process of healing a centuries-old wound. The theft of Hawaiian land by U.S. business interests and the desecration of sacred land, such as Kaho'olawe, have left a gulf between the Native Hawaiian community and the United States government. It will take years of goodwill, discourse, and collaboration to even begin to bridge this divide. However, the process is slowly lurching forward, with Kaho'olawe playing a major part. With the current roll out to determine who is part of the Native

Hawaiian population, for the first time since the annexation of Hawaii, Native Hawaiian sovereignty is a reality. Kaho'olawe is a potential home for the newly created Native Hawaiian government. Thus, a cleaned and restore Kaho'olawe will play an important role in this healing process. The collaborative planning and management of Kaho'olawe has been a societally beneficial and normatively "rational" choice.

h. Challenges: Future Considerations

While the State of Hawaii's collaborative planning practices and eventual return of Kaho'olawe to the Native Hawaiian people are generally considered successes, there are still numerous challenges for the future of the island and the Native Hawaiian people. The obvious area of concern is that the federal government has not honored its obligation and cleaned Kaho'olawe. First and foremost, it is important that, per the legislation passed in the early 1990s, the federal government cleans up Kaho'olawe to the point that it was before the bombing. Furthermore, the federal government must ensure that when the island is finally transferred back to the Native Hawaiian people, the responsibility for cleaning up the island does not suddenly fall on the them (J. Waihee, PBS Hawaii Community Roundtable, May, 2015). In other words, the federal government must not shirk its responsibilities. The Native Hawaiian people are not and should not be held responsible for the cleanup of Kaho'olawe. However, contrary to the language and mandates behind the transition of the island from the federal government to the State of Hawaii, the Department of Defense (DOD) has not finished the job. Many community activists contend that the DOD fell far short.

The federal government had only engaged in cleaning up Kaho'olawe from around 1993 until 2004. Thus, it should not come as a surprise that very little of the island was cleaned, especially when one compares ten years of cleanup to 50 years of bombing (K. Gapero, KIRC

189

Mahina'ai Nights, July 31, 2015). The cleaning process has been an expensive time-consuming

process and will continue to be an expensive time-consuming process. To date, over $400

million has been spent on the removal of unexploded ordinance (i.e. bombs) and other military

debris left behind after decades of military target practice (M. Richardson, PBS Hawaii

Community Roundtable, May, 2015). However, despite the $400 million on cleanup, the

majority of the island remains uncleared, with 23% not having been cleared at all. Only 9% of

the island has been cleared to a depth of four feet (D. McGregor, PBS Hawaii Community

Roundtable, May 2015). Kaho'olawe has a long way to go before it is even close to the condition

where it can be returned to the Native Hawaiian people.

Not only is the island not cleaned to a habitable state, it is not even clean enough for

basic safety considerations. Over 70% of the island still contains unexploded ordinance (K.

Gapero, KIRC Mahina'ai Nights, July 31, 2015). Parts of the island cannot be accessed at all.

There is still about a quarter of the island that remains uncleared and many areas of the island are

even unsafe for the type of cleaning efforts going on today (M. Naho'opi'i, PBS Hawaii

Community Roundtable, May, 2015). Therefore, Kaho'olawe is in such bad condition, the

ongoing cleanup and repair efforts are impeded.

Further complicating cleanup efforts are the lack of infrastructure and access on the

island. Kaho'olawe initially had no roads and no harbor when the Navy first began its

rehabilitation efforts. Much of the initial costs of repairing the damage done to Kaho'olawe

involved transportation costs and building infrastructure. Roads had to be built, which cost

approximately $10 million at the time (M. Naho'opi'i, Personal Communication, September 19,

2014). Despite this investment in infrastructure, the island still has limited access with few

navigable roads and limited safe harbors, due to unexploded ordinance in the water. There is still much work to be done on Kaho'olawe

Despite the legal mandate and good faith language back in the early 1990s, it appears that the federal government will not be honoring its obligation to restore Kaho'olawe anytime soon. Thus, all of the remaining responsibility for cleaning up and repairing Kaho'olawe has fallen and will likely continue to fall on KIRC and volunteers. In fact, this has been the case since 2004. Although the legal responsibility for cleanup was on the federal government, after the transition of the island from the federal government back to the State of Hawaii, volunteers have undertaken the majority of the cleanup efforts on Kaho'olawe. While the State of Hawaii has to provide some maintenance, monitoring, security, and enforcement, it is up to the community to provide the volunteers to do the manual restoration work (D. McGregor, PBS Hawaii Community Roundtable, May 2015). As a result of the additional responsibility of cleaning up the island and organizing volunteers, KIRC has been stretched to its limits.

Due to the combined stress of cleaning Kaho'olawe paired with diminishing funding, KIRC is currently in a fiscal crisis. Going into 2015, the estimated annual budget for KIRC was $2.8 million, but the KIRC trust fund did not have enough money to cover that amount. Half of KIRC's budget is manpower, while the other half is supplies and equipment (M. Naho'opi'i, Personal Communication, September 19, 2014). As a result of the diminishing monies in the trust fund, KIRC was forced to layoff half of its staff in 2015. With the federal money in the trust fund running out, KIRC is seeking funding from the State of Hawaii. Michael Naho'opi'i and KIRC staff are regularly going back to the State of Hawaii Legislature with different funding bills and packages (M. Naho'opi'i, Personal Communication, September 19, 2014). In the

absence of funding, Naho'opi'i, KIRC staff, and community leaders are mulling over different options to fund Kaho'olawe's cleanup efforts and life after the cleanup.

Ultimately, Kaho'olawe must become financially self-sustaining. Currently, KIRC is looking at different mechanisms for revenue generation (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). However, the options of what can be done on Kaho'olawe are severely constrained. Commercialization and tourism are not options, as they are feared to disrupt and further damage the island. In fact, the law specifically forbids commercial activities on Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Moreover, besides tourism and commercial activities not being options, any revenue generation is going to be limited due to the island's bad condition

Any revenue generation efforts on the island must contend with the fact that in essence, years of misuse and bombing paired with complications from its location have left Kaho'olawe barren. Much of the island is sterile due to years of grazing and bombing. Further complicating matters is that Kaho'olawe is in the middle of a wind tunnel between Maui and the Big Island of Hawaii. Kaho'olawe normally has 30-mile winds coming through, which blow off the soil. As a result, it is difficult to plant vegetation with no soil to hold it down. Due to the grazing, bombing, wind, and bad soil, Kaho'olawe has a significant hard section with no organic material or nutrients. KIRC President Michael Naho'opi'i noted that the staff and volunteers have a running joke that they might as well place a parking lot in that area due to its condition (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Limited options have forced the KIRC staff to think creatively.

In an effort to avoid tourist activities and due to the sterile condition of much of the island, some people have suggested energy production and communication as revenue generating

192

options for Kaho'olawe. Energy production seems to be gaining momentum with some people.

There are people pushing for a 500-megawatt generator, wind turbine, and wind farms on

Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Since no one lives

on Kaho'olawe, the island could be used for a large energy system. In fact, Kaho'olawe could

potentially be used to generate enough energy for the entire State of Hawaii (M. Naho'opi'i,

Personal Communication, September 19, 2014). Communication towers are another option.

However, energy generation and communication run into some of the same concerns as tourism

and commercialization.

The key for any funding activities on Kaho'olawe will be to maintain a fine balance

between generating revenue for cleaning and maintenance efforts, while not generating revenue

for revenue sake. Besides being illegal, revenue generation for the sake of revenue generation is

not in the spirit of what the community activists, KIRC, and Protect Kaho'olawe Ohana (PKO)

fought for and envision for the island's future. Thus, KIRC is looking for revenue generation

options that are consistent with what is being done on the island in terms of cultural preservation

and education (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Part of KIRC's

financial future will likely involve educational and cultural programs.

One option being considered by KIRC is to have people pay to come onto the island for

educational purposes (e.g. workshops, training). KIRC President, Michael Naho'pi'i, notes that

the plan would be similar to people paying tuition for classes at a college or university. The fees

collected would help pay for the cleanup, maintenance, and operation of the island (M.

Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). The cleanup visits are already

serving an educational function for the volunteers going to Kaho'olawe, so it makes intuitive

sense to include education in Kaho'olawe's future.

Similar to, or on top of the educational center plan, is to make Kaho'olawe a center for cultural learning and mastery of Hawaiian arts. The Edith Kanaka'ole Foundation has developed a plan to use Kaho'olawe as a cultural learning center. Hawaiian and non-Hawaiian people would go to Kaho'olawe to learn about Hawaiian culture. The cultural education program would range from a deep knowledge to mastery, and at all different levels of experience. Part of the learning would involve working on the restoration of the island (D. McGregor, PBS Hawaii Community Roundtable, May, 2015). As is the case with KIRC's volunteer cleanup program, the feeling is that working on the land develops one's appreciation for it. People need to understand Kaho'olawe as something to be cared for, rather than as a resource.

Ultimately, the strength and beauty of Kaho'olawe is its remoteness. Thus, any sustainable plans to "develop" the island must keep that beauty and isolation in mind (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Rather than develop Kaho'olawe to where it becomes unrecognizable, KIRC, PKO, and the Hawaiian community are working to ensure that Kaho'olawe's natural beauty is preserved and restored. Anything otherwise would negate all of the efforts to save, restore, and protect Kaho'olawe over the years. The story of Kaho'olawe is amazing given where the island was at the height of the Cold War under federal military control compared to where it is today in the care of the State and people of Hawaii.

CHAPTER IV. ANALYSIS, DISCUSSION, AND RECOMMENDATIONS

A. Analysis and Discussion

1. Recurring themes across case studies

Throughout the course of the study, recurring themes began to emerge across the two case studies. Some themes were anticipated based on initial research and planning theory in the areas of activist and progressive planning, and multicultural planning. Community activism and

agency played a critical role in both case studies. Lawyers, activists, and multicultural translators from the Gila River Indian Community and the Native Hawaiian community acted as catalysts for the landmark policy changes seen in the Gila River and Kaho'olawe, respectively. Moreover, these lawyers, community activists, and multicultural translators were able to use their training and experiences outside of the community to co-opt "modern" institutions and structures to advance indigenous values and beliefs. Therefore, if one were to highlight the presence of specific schools of equitable planning theories in this study, it would be activist/progressive planning (e.g. Forester, Krumholz, Davidoff) and multicultural planning (e.g. Umemoto, Burayidi, Benhabib). However, even with the efforts and effectiveness of activist and multicultural planners, there were other key factors in each case study.

In each case study, federal lawsuits, as well as the confluence of several key historical events, facilitated the activist and multicultural planners' efforts. The impact of federal lawsuits was not anticipated, but was not all together surprising when one considers how disenfranchised communities have used federal litigation to level the policy playing field in the past. Moreover, due to the unique outcomes of both the Arizona Water Settlement Agreement (AWSA) and the return of Kaho'olawe, the impact of serendipitous historical events was also not surprising. Both cases were deeply embedded in particular historical contexts. The stories of Kaho'olawe and the AWSA would have had vastly different outcomes had it not been for the influence of broader events and the presence of key political figures tied to specific periods in history.

The final recurring theme was that, despite being embedded in two particular contexts, collaboration was the more societally beneficial option in both case studies. In other words, collaboration was the normative and value-based rational choice. As discussed by the works of Lawrence Susskind, Judith Innes, and David Booher, collaboration and collaborative planning is

the "rational" choice once we look beyond instrumental rationality and look towards more

normative and value-based considerations, such as open and inclusive discourse, and societal

benefits. The outcomes of both case studies showed that collaborative planning was

instrumentally rational in that it was less costly and time consuming for all parties engaged in the

planning process, and normatively rational because it yielded broader societal benefits.

Table 5: Recurring Findings Between the Gila River Indian Community and Kaho'olawe

Findings	Theorists
Changes in the land and natural resource policy and planning process initiated by community activists and lawyers	John Forester, Paul Davidoff, and Norm Krumholz discuss the important role that planners and activists can play in changing the policy and planning processes. Davidoff in particular focuses on the role that laywers can play. In the case of the Gila River Indian Community, the lawyers came from the community.
Federal laws/lawsuits equalized policy and planning playing field	Iris Marion Young emphasizes that deliberative (and collaborative) processes will not be equitable until social inequalities are addressed. In both case studies, federal laws, codes, and precedent (e.g. the Religious Freedom Act, the Winters Doctrine) provided much needed leverage for the Gila River Indian Community and Native Hawaiian activists
Multicultural translators as bridges between mainstream and indigenous communities	Karen Umemoto discusses the importance of having individuals from the communities act as translators for planners and officials. The "translators" are educated outside of the community but still have ties to the community and thus provide a much needed community perspective. However, the key distinction in both the Gila River and Kaho'olawe cases is that the multicultural translators were also the key agents of change, rather than just being representatives from the community.
Community leaders using "modern" institutions to advance indigenous interests	In both case studies, community leaders and activists were able to use their training and awareness of "modern" institutions to incorporate indigenous values and beliefs into the environmental planning process.
Historical and cultural context	The stories of the Arizona Water Settlement Agreement and the return of Kaho'olawe are embedded deeply in critical moments in Arizonan and Hawaiian history, respectively. Moreover, the role of United States history was a factor for both cases, and global history for the Kaho'olawe case study. Both case studies are also a product of place (i.e. Arizonan and Hawaiian culture).
Collaboration is the normatively rational and societally beneficial option	Lawrence Susskind, Judith Innes, and David Booher all discuss the advantages of collaborative planning practices versus more conflict oriented approaches. In both cases, collaboration has been the less costly, time consuming, and embarassing option.

Source: Analyst of theorists by Hiroshi Ishikawa

a. Activists and community leaders as catalysts

Activism can transform how we plan for and manage our environment. Planning theorists John Forrester, Charles Hoch, Norm Krumholz and Paul Davidoff, to name a few, contend that issues of equity and access in planning must be addressed through activism. In contrast to mainstream planning, which emphasizes instrumental rationality and detachment, activist and progressive planning stresses that planners need to be advocates for social and environmental justice. Furthermore, many of those advocating for changing in the planning process are not academics, but rather activists working on the ground. For instance, Paul Davidoff was an activist lawyer and Norman Krumholz was the former Planning Director for the City of Cleveland (Krumholz, 1982; Davidoff, 1965). Activist and progressive planning emphasizes that rather than being neutral analysts who make decisions based solely on quantifiable, and often financial, benefits and costs, planning also needs to address issues of social justice and equity. Moreover, traditionally disenfranchised communities need to become empowered in the planning process.

Community activism played and continues to play a critical role in both the Gila River Indian Community (GRIC)/Arizona Water Settlement Agreement (AWSA) and the Kaho'olawe case studies. In both cases, activism was needed to change the status quo of how land and natural resource planning was being done in Arizona and Hawaii. For decades, the State of Arizona had locked out the GRIC from water rights negotiations. Similarly, the federal government and U.S. military took total disregard to Native Hawaiian concerns about the military's treatment of Kaho'olawe. Both cases provide real world examples of the impact that community activism can have on transforming land use and natural resource planning.

Although there have been community led efforts in the GRIC and in the Native Hawaiian community going back to the early 20th century, much of the activist momentum for both communities traces back to the late 60s/early 70s. It was at this time that the emerging social consciousness began to influence political movements all over the world, including in Arizona and Hawaii. At the center of the emerging Native American legal activism in the late 60s and early 70s were John Echohawk and Rodney Lewis. John Echohawk created the Native American Rights Fund (NARF) in 1970. As a nonprofit organization, NARF has been the primary legal entity representing Native American interests, including land and water rights (J. Echohawk, WRRC Conference, June 9, 2015). Lewis became involved with NARF in 1978. Working with NARF, Rodney Lewis, former GRIC General Counsel, has been the main litigator and negotiator for GRIC water rights (R. Lewis, NARF R. Lewis Keynote Introduction, August 25, 2015, p.3, line 26-34). Prior to the emergence of Lewis and Echohawk, Native Americans had no voice representing or advocating their interests before local, state, and federal policy and planning bodies.

Similar to the Gila River case study, activism also played a fundamental role in transforming the planning, management, and stewardship of Kaho'olawe. If not for ground up community activism, Kaho'olawe would still be a bombing site or used for some other military purpose. Prior to the early 70s, the Native Hawaiian community was locked out of the Kaho'olawe planning process. Native Hawaiian activism fundamentally changed how people viewed and treated the island of Kaho'olawe. At the heart of the activist movement were community leaders "Uncle" Charles Maxwell, Ian Lind, Noa Emmet Aluli, and Walter Ritte, and the community organization, Protect Kaho'olawe Ohana.

Along with an emerging social consciousness in the late 60s/early 70s, community leaders were discovering, or rather rediscovering, a spiritual dimension to the land and the environment. Aluli and Ritte's spiritual experience on Kaho'olawe fundamentally changed Native Hawaiian activism. The spiritual aspect had not existed in the movement prior (J. Waihee, PBS Hawaii Community Roundtable, May 2015). Moreover, other Hawaiian activists such as Maxwell and Lind began to see the importance of including land rights on the Native Hawaiian community agenda. Kaho'olawe provided a focal point for the different sub-movements within the Native Hawaiian community. Armed with a newfound social and environmental consciousness, paired with a renewed spiritual awareness, Native Hawaiian activists were ready to fight for Kaho'olawe.

The impact of activism on environmental and social justice cannot be underestimated. In particular, community advocacy and activism has changed how land and natural resource planning is done, especially with regard to underrepresented and disenfranchised communities. Prior to the social justice and environmental movements of the late 1960s/early 1970s, lower income and minority communities, particularly indigenous communities, had no voice in the land and natural resource policy and planning process. The fight for access was hard fought. Moreover, activism alone was not enough. In both the GRIC and Kaho'olawe cases, another theme is the importance of federal statutes and lawsuits equalizing the policy and planning playing field. While the activism acted as a catalyst for change, the stick that forced government and private stakeholders to listen to native and indigenous concerns was the federal lawsuit.

b. Federal statutes and lawsuits as equalizers

Deliberative and collaborative policy and planning cannot truly occur without confronting social inequality. Otherwise, if the political, social, and economic barriers to

participation are not addressed, the "participation" becomes symbolic and meaningless. The work of John Dryzek emphasizes the potential for deliberative forums that bring as many groups and interests together as possible into a discursive policy and planning process. However, deliberative theories, for the most part, do not address social, economic, and political inequality. In other words, how can different groups come together and discuss policy if there are barriers and unequal resources (e.g. financial, information, political capital) between these groups? While it is nice to assume all communities have equal access and influence, some groups and interests have more money, political connections, and information than others.

If structural and historic inequalities are not addressed, immigrants, minority groups, and the poor, will always be at a disadvantage in any land-use and natural resource planning deliberative forum. In *Inclusion and Democracy*, Iris Marion Young emphasizes that the democratic process will never be truly inclusive until we remove historical, social, economic, and cultural inequalities. Ultimately, the goal of democracy should be to promote justice and equality. One way to remove the structural barriers and promote justice is through protest and activism (Young, 2000). In the GRIC and Kaho'olawe case studies, activism played a critical role in advancing social and environmental injustice. However, another theme that emerged in both cases is how federal statutes and litigation bolstered the community activism. Federal litigation and the threat thereof gave Native and indigenous communities a seat at the table. Furthermore, federal litigation also acted as an impetus or catalyst for more collaborative approaches and mediation.

While federal lawsuits are not examples of deliberative and collaborative policy and planning, they help level the playing field for communities without traditional political and financial resources. Given the role that the courtroom has played for disenfranchised groups

seeking to empower themselves, whether it was Civil Rights Law or Equal Rights, the emergence of federal lawsuits as a key factor behind collaborative and deliberative indigenous land and natural resource planning should not come as a surprise. The primary tactic for Native American lawyers and Native Hawaiian activists has been to focus on federal legislation and Supreme Court decisions. Specifically in the case of the GRIC, the key Supreme Court decision was the Winters Doctrine.

The 1908 Winters Doctrine was a game-changer for Native American community activists and lawyers in the late 60s and early 70s. Under the Winters Doctrine, water rights were determined based on "first use". Thus, having been on the North American continent first, the water rights of Native tribes were held as senior rights that had priority over later created state water rights laws (J. Echohawk, WRRC Conference, June 9, 2015). Tribes began to file federal litigation. Due to the efforts of Native lawyers, such as John Echohawk and Rodney Lewis, the tribes were now aware that they had senior water rights superior to state water rights (J. Echohawk, WRRC Conference, June 9, 2015). The states could no longer ignore tribal claims. Overall, the tactic has proven successful. Twenty-nine of the Native American water rights cases have been resolved via negotiated settlements approved by Congress (J. Echohawk, WRRC Conference, June 9, 2015). Moreover, in addition to being a critical factor in Native water rights settlements, the Winters Doctrine could potentially play a pivotal role in the Dakota Access Pipeline and other disputes concerning the protection of water sources from pollution. Although not specifically about resolving water rights disputes, it can be argued that projects such as the Dakota Access Pipeline violate the spirit of the Winters Doctrine in that they are corrupting water sources of tribes with senior water rights (Indian Country Media Network, 2017). The Winters Doctrine and other federal statutes continue to empower Native communities.

In both case studies, litigation, or the threat thereof, gave voice to communities locked out of the land and natural resource planning processes. Native lawyers and activists, including Rodney Lewis and John Echohawk, see federal lawsuits as a way to force the hand of stakeholders towards collaborative agreements (R. Lewis, NARF Symposium, August 25, 2015). Similarly, the collaborative planning practices employed by the State of Hawaii today would not have happened had it not been for federal legislation inspired litigation bringing an end to the U.S. military control of Kaho'olawe. Where the Winters Doctrine was the key federal ruling that propelled GRIC and other Native American water rights litigation, the National Environmental Protection Act (NEPA), the National Historic Preservation Act, the American Indian Religious Freedom Act (AIRFA), and the Native American Grave Protection Act (NAGPRA) all provided some much needed legal momentum for Hawaiian community leaders in their dealings with the U.S. military. Prior to NEPA, AIRFA, and NAGPRA, indigenous and Native communities had little recourse against the environmental injustice committed on Kaho'olawe in the form of bombings and military tests.

NEPA was the primary driving force for Native Hawaiian lawsuits against the federal government. Protect Kaho'olawe Ohana (PKO) sued the Navy in 1976 based on NEPA. In response to the lawsuit, the Supreme Court issued a consent decree requiring the Navy to comply with NEPA, including conducting an environmental impact study (EIS) of the effects that decades of military testing had on Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). In addition to NEPA, Native Hawaiian activists filed lawsuits based on the National Historic Preservation Act, AIRFA, and NAGPRA. As a result, all of the archaeological sites on Kaho'olawe had to be documented, Native Hawaiians gained access to the island for religious ceremonies, and sacred sites on the island were protected from military testing and

other non-cultural uses. While activism was critical in raising consciousness and awareness, the federal legislation passed in the 1970s empowered the Native Hawaiian community against the U.S. military in ways that had never been seen before.

While most people would agree with the idea of deliberative democratic forums in theory, history and the two case studies suggest that deliberation and collaboration rarely, if ever, happen spontaneously in day-to-day policy and planning contexts. Prior to filing lawsuits, local and state legislators ignored the GRIC's water rights claims and grievances. Although the protests raised awareness about the plight of Kaho'olawe, the Navy and the federal government were finally compelled to listen and respond to Native Hawaiian concerns once lawsuits were filed in the U.S. Supreme Court. Thus, although the AWSA is a model for collaborative planning, the GRIC, the State of Arizona, and other stakeholders would probably not have come together had Rodney Lewis and the GRIC lawyers not filed a lawsuit against the State of Arizona based on the Winters Doctrine. Similarly, Kaho'olawe would probably still be under Department of Defense control, had the PKO and other Native Hawaiian activists not filed NEPA and AIRFA inspired lawsuits against the U.S. military.

In both cases, local, state, and federal officials and agencies made the instrumentally and normatively rational decision to switch from hierarchical and combative, "non-democratic" planning, to embrace more "equitable planning" practices. Lawsuits are costly and time consuming, and in some cases (e.g. the Winters Doctrine) could result in local and state governments losing their water rights. Thus, in both cases, the move towards collaboration was the efficient or instrumentally rational choice. However, in the end, by embracing communicative action and open discourse in the form of collaborative planning, officials and agencies in both cases made the "collaboratively" and normatively value-based rational decision

(Innes and Booher, 2010; Habermas, 1981). In both cases, federal lawsuits have played a surprising role in "encouraging" more collaborative and multicultural practices, and transforming the planning processes.

c. Multicultural translators

While activism and lawsuits help push the policy and planning process towards greater inclusiveness and collaboration, ultimately, the actual collaboration and deliberation depend on clear and accessible communication. Both the Gila River Indian Community (GRIC) and Kaho'olawe case studies exemplify the importance of multicultural planning and the need for individuals who can serve as multicultural translators. Rather than fear racial and ethnic difference, planning should embrace and build new methods appreciative of diversity. Diversity of thoughts and ideas in our political discourse is critical for ensuring effective policy and planning.

Karen Umemoto discusses the importance of multicultural translators who can aid in the effort to employ more culturally and epistemologically diverse policy and planning practices. As well intentioned as government officials may be, they often do not speak nor understand the "language" of a particular community. Therefore, in communities with strong cultural identities, practices, and protocols, it is not uncommon for planners and other government officials to seek the aid of cultural interpreters (Umemoto, 2001). These cultural interpreters serve as bridges to facilitate cross-cultural communication. Oftentimes, cultural translators are educated and engaged community members who have maintained connections to community organizations, social networks, and cultural practices (Umemoto, 2001). Through these translators, planners are able to build trust. Trust is critical for building bridges across difference. It is important to

respect multiple epistemologies and cultural claims, and to elevate and empower communities. Critical to multicultural empowerment is community-led planning.

In both the GRIC and Kaho'olawe case studies, the multicultural translators share the unique combination of having been born and raised in the community, educated and trained outside of the community, and then going back to work for the community. Rodney Lewis, former General Counsel for the GRIC, and his son Stephen Lewis, current Governor of the GRIC, act as multicultural translators in that, being from the GRIC, they have credibility within the GRIC, but having been educated and worked outside of the GRIC, they have credibility with government officials and private interests outside of the GRIC in Arizona. Rodney Lewis received his law degree from UCLA and Stephen Lewis received his Masters of Public Policy from Harvard. However, both Rodney and Stephen Lewis were born and raised in the GRIC.

It is important that the leaders, lawyers, and activists empowering communities come from the communities themselves. This is especially the case with Native lawyers who can interpret and explain issues to their communities more fluently and easily than non-Native lawyers. (R. Lewis, WRRC Conference, June 10, 2015). While non-Native lawyers may be able to sympathize with the situation of the Native communities, in order for communities to empower themselves, the activists and leaders must come from these respective communities.

Throughout the early protests for Kaho'olawe until today, Native Hawaiian multicultural translators have played a critical role in the success of Kaho'olawe. Multicultural translators have been at the forefront of the collaborative efforts between the Native Hawaiian community, the federal government, and the State of Hawaii. Along with early leaders, such as Charlie Maxwell, Walter Ritte, and Noa Emmet Aluli, there were other key figures that helped transition Kaho'olawe from a bombing range under the U.S. military back to the State of Hawaii. Michael

Naho'opi'i, current Executive Director of the Kaho'olawe Island Reserve Commission (KIRC), was able to use his personal experiences, and education and training, to facilitate the transition of Kaho'olawe from the Department of Defense (DOD) back to the State of Hawaii.

There are few people who have the experience and training to talk to the Native Hawaiian community, the military, federal officials, State of Hawaii officials, and private interests as Michael Naho'opi'i. Michael Naho'opi'i is Native Hawaiian, and was also one of the first civilians to vist Kaho'olawe when public access was first granted (M. Naho'opi'i, Personal Communication, September 19, 2014). In addition to his personal experience with Kaho'olawe, Naho'opi'i is at a critical intersection between different interests. Naho'opi'i is a former Naval officer. In the early 90s, Naho'opi'i was the community liaison for the U.S. Navy when Kaho'olawe was being transferred back to the State of Hawaii. (M. Naho'opi'i, Personal Communication, September 19, 2014). Naho'opi'i's military background paired with his Native Hawaiian heritage and awareness of Kaho'olawe were invaluable in bridging communication between the U.S. Navy and the Native Hawaiian community.

Similar to community activists, multicultural translators act as catalysts for change and collaborative planning practices. In fact, as the case studies illustrate, many multicultural translators are activists and advocates for change. Moreover, critical to the efforts of these multicultural translators, community leaders, activists, and advocates was their ability to combine and graft indigenous beliefs, values, and interests to Western and "modern" political, policy, and planning practices. Although disempowered and disenfranchised by mainstream planning processes, the Native Hawaiian community and the GRIC were able to facilitate change by taking advantage of the system that had taken advantage of them for centuries.

d. Community leaders using "modern" institutions to advance indigenous interests

Western and colonial institutions and structures, such as the court system and planning processes, have historically been used to disempower indigenous communities. The Kaho'olawe and Gila River Indian Community (GRIC) case studies were no different. As far as Kaho'olawe was concerned, initially, the U.S. Navy officials had no awareness of the importance of the land/Aina to Native Hawaiians, nor did the Navy engage Native Hawaiians in the Kaho'olawe planning process (M. Naho'opi'i, Personal Communication, September 19, 2014). Similarly, Arizona state officials had little regard for the cultural and spiritual significance of the Gila River to the GRIC. The water resource planning and management process in Arizona locked out the GRIC. Native American water rights claims were generally ignored and disregarded on the state and local level in contrast to the claims of the enfranchised (i.e. white) citizens (DeJong, 2004). Moreover, prior to the discovery of the Winters Doctrine, the GRIC and other tribes had limited to little success in the state courts (R. Lewis, NARF Symposium, August 25, 2015). However, unlike other cases where indigenous peoples and values were disempowered by "modern" and Western policy, planning, and legal processes, both the Native Hawaiian community fighting for Kaho'olawe and the GRIC had leadership, activists, and advocates from within the community who were able to use, and to a certain extent exploit, these "modern" institutions and processes to advance indigenous beliefs and practices.

Through their training, knowledge, and awareness of "modern" policy, planning, and legal institutions, community leaders were able to transform the stewardship of the Gila River and Kaho'olawe to incorporate Native values and cultural practices. As discussed earlier, awareness of the National Environmental Protection Act Historic Preservation Act, and the

Winters Doctrine, to name a few, enabled Native lawyers and activists to force the hands of

federal, state, and local officials with regard to the planning and management of the Gila River

and Kaho'olawe. As a result, water rights were returned to the GRIC and the bombing on

Kaho'olawe stopped. However, Native activists and leaders were able to use "modern"

institutions beyond just as a means to an end (i.e. lawsuits to achieve a goal).

Now under the stewardship of the GRIC, the planning and management of the Gila River

incorporates Native values and beliefs. The ultimate goal is to bring back actual flowing water to

the Gila River in order to support long lost cultural practices (H. Lopez, WRRC PMIP Tour,

June 9, 2015). Moreover, rather than conflict being the norm for Arizona water resource

management, the GRIC and the Arizona Water Settlement Agreement (AWSA) has established

collaboration and cooperation as the new norm (R. Lewis, NARF Conference, August 25, 2015).

Working together to care for the land and environment is much more akin to the indigenous

sensibility than a combative planning process. Thus, the AWSA in and of itself is a "modern"

agreement steeped in Native and indigenous sensibilities.

Similar to the GRIC and AWSA case study, Native Hawaiian leaders and activists were

able to use "modern" institutions and processes to introduce indigenous values and practices in

the stewardship of Kaho'olawe. Through lawsuits and protests, community leaders in Hawaii

were able to end the bombing on Kaho'olawe, and have the island returned to the State of Hawaii

(M. Naho'opi'i, Personal Communication, September 19, 2014). However, more than just using

lawsuits to achieve an end, Native Hawaiian activists were also able to influence how the federal

government and later the State of Hawaii would manage and care for the island. Even before

Kaho'olawe was returned to the State of Hawaii, the U.S. Navy began to incorporate

community-based planning practices in response to the lawsuits and protests initiated by Native

Hawaiian activists (M. Naho'opi'i, Personal Communication, September 19, 2014). The planning and management of Kaho'olawe transformed further once the island was transferred from the federal government to the State of Hawaii.

In contrast to the U.S. Navy, the Kaho'olawe Island Reserve Commission (KIRC), a State of Hawaii agency, incorporates Hawaiian values, beliefs, and practices. KIRC is fundamentally a community-based agency that incorporates Hawaiian culture (e.g. land/Aina, family/Ohana) into how it cares for Kaho'olawe (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). The incorporation of Native beliefs and practices in the design and implementation of KIRC is due in part to the concerted efforts of Michael Naho'opi'i and other Native Hawaiian activists. Furthermore, leaders such as Naho'opi'i also knew that State of Hawaii legislators and agencies would be more sympathetic towards Native Hawaiian concerns than the federal government (M. Naho'opi'i, Personal Communication, September 19, 2014). As was the case with the GRIC and AWSA, well-trained and dedicated Native Hawaiian leaders were able to transform "modern" and colonial institutions to integrate indigenous values, beliefs, and practices.

Through a number of strategies, including activism and federal lawsuits, community leaders, multicultural translators, and advocates have been able to transform the planning, management, and stewardship of the Gila River and Kaho'olawe. The efforts of the GRIC and Native Hawaiian community and the lessons learned could be applied to other cases. For instance, would a more intimate knowledge of federal law and the planning process on the part of Native Hawaiian activists drastically alter the construction and management of the telescopes on Mauna Kea, or halt the bombing in the Makua Valley? The answers to those questions remain to be seen. However, it is important to acknowledge that while having brilliant leaders and

translators who know how to utilize the laws, courts, and planning agencies to their community's advantage is essential, it may not be enough.

Although having the will, know how, and taking action is critical to bringing about change, agency and effort is just part of the story. Just as changes in federal statutes and laws, and awareness of these laws and government institutions, gave community leaders much needed momentum and support to advance their causes, there are other broader factors to consider when looking at the evolution and transition towards collaborative and multicultural planning practices. Community leaders, activists, and translators do not exist within a vacuum, but rather operate in a broader social, cultural, historical, and political context.

e. "Success" stories embedded in particular historical and political contexts

Both case studies exist in unique contexts of time and place. Therefore, much of the success experienced in both case studies is a result of a once in a lifetime mix of historical events and political climate. While the Arizona Water Settlement Agreement (AWSA) exists because of the dedicated efforts of GRIC activist lawyers and the impact of the Winters Doctrine on Native American water rights lawsuits, the collaborative negotiations that led to the agreement probably would not have occurred at a different time in Arizona state politics. Similarly, along with the efforts of community activists, leaders, and multicultural translators, the story of Kaho'olawe owes much to a serendipitous mix of global, state, and local events in the early 1990s. These real world examples and manifestations of collaborative and multicultural planning involve multiple moving parts.

A significant part of the success of the AWSA can be attributed to timing. The efforts that resulted in the AWSA gained steam during a time in which there were key supporters in both the State of Arizona and the federal government. Traditionally, state and local officials in

210

Arizona were generally unsympathetic towards Native American issues and concerns. However, in the early 2000s, when the AWSA was negotiated and signed, the State of Arizona was at a rare point where there were legislators and political leaders who understood the importance of resolving Native American land and water rights issues. Individuals such as U.S. Senator Jon Kyl from Arizona, U.S. Secretary of the Interior Bruce Babbitt, who was the former governor of Arizona, and the Arizona Governor at the time, Janet Napolitano, were able to create a unique atmosphere in which the settlement could occur (R. Lewis, NARF Symposium, August 25, 2015). This unique confluence of political support is especially remarkable considering how conservative the State of Arizona has historically been when it comes to the rights of minority groups, including Native Americans. The AWSA occurred at a unique time for Arizona and federal politics.

Along with a uniquely supportive environment in the State of Arizona, the context under which the AWSA was signed was preceded by key events on the federal level. Much of the success of the AWSA and other Native American water settlement agreements goes back to the 1990s during the Clinton Administration. President Bill Clinton initiated the Water Rights Settlement Program, which involved U.S. Secretary of the Interior and former Arizona Governor, Bruce Babbitt, and Babbitt's counselor and later Secretary of the Interior, David Hayes, to help expedite the various pending Native American water rights disputes and lawsuits. Over a decade later, the initiatives advanced by the Water Rights Settlement Program would set the table for the AWSA in 2004, which was then signed into law by President GW Bush (R. Lewis, Conference, August 25, 2015). The influence of the Clinton Administration on Native American water rights policy cannot be downplayed. Moreover, the Clinton Administration also had a positive affect on Native Hawaiian land rights concerns.

One similarity that should be emphasized between the GRIC and Kaho'olawe case studies is the impact of the Clinton Administration. Much as the Clinton Administration initiated Indian Water Rights Settlement Program set the table for the AWSA, the Clinton Administration's philosophical stance on military assets would pave the way for the return of Kaho'olawe to the State of Hawaii, and eventually the Native Hawaiian people. In contrast to the military buildup that occurred during the Reagan era, the Clinton Administration began reducing the size of the military. It was during the early 1990s when the Clinton Administration shifted money away from manpower and weapons systems, started to slowly get out of specific regions that were once considered essential for military purposes, and cleaned up and closed down numerous military bases (M. Naho'opi'i, Personal Communication, September 19, 2014). The reductions in the military infrastructure had far-reaching effects, including Kaho'olawe. Over time, Clinton's military drawn down made it more difficult for the U.S. military to justify continuing its occupation of the island. Moreover, the military drawn down was indicative of the Clinton Administration's broader political and philosophical stance.

The Clinton Administration finally brought attention to the wrongs committed against indigenous peoples by the U.S. government. In general, the1990s were a relatively favorable era for Native Hawaiian and Native American concerns on the federal level compared to previous decades. For the first time in history, the House, Senate, and the President/Administration were all Democrat and relatively sympathetic to indigenous issues. It was during this time that President Clinton signed a bill formally apologizing to the Native Hawaiian people for the illegal overthrow of the Sovereign Hawaiian Kingdom. The Clinton Administration was sympathetic to Native Hawaiian and Native American concerns (M. Naho'opi'i, Personal Communication, September 19, 2014). Formal apologies for past wrongs committed against Native Americans

and Native Hawaiians would have probably not occurred during the Reagan or other Administrations. The early 1990s were a unique time for indigenous land and natural resource policy and planning on the federal and state level.

Similar to the GRIC and the AWSA, the unusual outcome of Kaho'olawe is due to a combination of human agency, timing, and historical and political context. While we should not dismiss the impact of Native Hawaiian activism and the influence of federal lawsuits, much of the story of Kaho'olawe is also embedded in a broader political and historical context. Just as the dawn of the Cold War in the 1950s lead to the U.S. military annexing Kaho'oalwe, and the Native Hawaiian movement to save Kaho'olawe grew out of the social and environmental activism of the late 60s and early 70s, the story of Kaho'olawe was influenced by key events in Hawaiian political, U.S., and broader global history.

Hawaii was in a unique political situation in the early 1990s. The passing of Senator Spark Matsunaga opened up a seat in the U.S. Senate leading to a highly contested race between Democrat Representative, Daniel Akaka, and Republican Representative, Pat Saiki. In order to help Saiki gain leverage in the election, President George H. Bush signed the Executive Order that stopped the bombing on Kaho'olawe (M. Naho'opi'i, Personal Communication, September 19, 2014). Ultimately, Akaka would win the Senate seat, but Saiki still played a critical role in the history of Kaho'olawe in the process. However, beyond political interest, despite being a Republican, Saiki was from Hawaii and sympathetic to Native Hawaiian concerns. Furthermore, Hawaii in the 90s had much more political capital than it does today.

The 1990s were a good time for Hawaiian politics. Hawaii was fortunate enough to have two highly respected and dedicated Senators in the U.S. Congress, Senator Daniel Inouye and newly elected Senator Daniel Akaka. Senator Inouye was one of many legislators from the State

of Hawaii who understood the history and culture of Hawaii, including Kaho'olawe, and had the political influence and capital to do something about it. Most notably, Senator Dan Inouye helped orchestrate and move forward Title X of the Defense Appropriation Act of 1994, which returned Kaho'olawe to the State of Hawaii (M. Naho'opi'i, Personal Communication, September 19, 2014). The impact and influence of Senator Inouye on Native Hawaiian issues and concerns, such as Kaho'olawe cannot be underestimated. Thus, the passing of Inouye and the retirement of other Hawaiian political leaders have severely diminished the influence that the Hawaiian Federal Delegation has over federal politics and land-use decision-making. The 90s were a special time in Hawaiian politics.

Along with the unique political climate on Hawaii, the 90s were also a time of major shifts in international relations. The significant global change that occurred in the early 1990s was the end of the Cold War. After two World Wars and decades of a Cold War with the Soviet Union, the public and U.S. government were ready for a change. By 1993, the draw down began, and the U.S. government began decreasing the size of the military. Historical events had made the maintenance of Cold War resources and stockpiles, such as Kaho'olawe as a bombing range, unnecessary (M. Naho'opi'i, Personal Communication, September 19, 2014). Thus, between a sympathetic Clinton Administration, federal legislators with political capital from Hawaii pushing for the end of the bombing and return of Kaho'olawe, and the U.S. military no longer having any justifiable reason to keep Kaho'olawe, there was a perfect political and historical storm that led to an end of the U.S. military bombing on Kaho'olawe and the return of the island to the State of Hawaii.

The "successes" of the GRIC/AWSA and Kaho'olawe are embedded in specific eras of now long gone federal, Arizonan, Hawaiian, and global political history. Given the state of the

Republican Party today, it is safe to conclude that the GRIC would receive little to no support

from Arizona legislators and that Kaho'olawe would not have a Republican Senatorial candidate,

such as Pat Saiki, as an advocate. The Republican Party in the early 90s was different than the

party is today. Back in the early 1990s, the Republicans were much more moderate (M.

Naho'opi'i, Personal Communication, September 19, 2014). Although the Obama

Administration is sympathetic to indigenous and Native concerns, the hard line Republic House

and Senate are definitely not. The Hawaiian Federal Delegation no longer has the political

capital that the late Senator Daniel Inouye and his peers were able to develop. Arizona Senator

Jon Kyl has retired. The situation in the U.S. Congress is different today. America is a different

place. Global politics have changed. The playing field on which the AWSA occurred and

Kaho'olawe was returned has changed.

Although the contexts that led to the AWSA and the return of Kaho'olawe may have

changed, there are still lessons that can be carried forward. What have not changed are the

benefits of collaborative planning practices. Thus, the take away lesson from both case studies is

not just that they happened during unique historical periods, but also what valuable lessons have

been and continued to be learned. The positive lessons and benefits of collaborative and

multicultural land and natural resource planning practices can be carried out to different

situations and contexts. At the heart of the successes behind the AWSA and Kaho'olawe then

and today is the importance and value of collaboration.

f. Collaboration as "rational" choice

Collaborative planning is at the heart of the Arizona Water Settlement Agreement

(AWSA) and the Kaho'olawe Island Reserve Commission (KIRC). As defined by Patsy Healey,

collaborative planning is the process by which participants arrive at an agreement on a planning

action that expresses their mutual interests. According to Healey, all planning activity involves some interactive relation and some kind of governance process (Healey, 1997). The AWSA is the formalized water rights negotiation and collaborative process between the Gila River Indian Community (GRIC), the State of Arizona, and private stakeholders. Similarly, as an agency of the State of Hawaii, KIRC employs community-oriented and collaborative planning practices, especially in contrast to the combative approach utilized by the U.S. military. The positives outcomes that have come as a result of the creation and implementation of the AWSA, and the collaborative planning practices of KIRC, support the principle that collaboration is the societally beneficial choice.

Susskind and Cruikshank (1987), and Innes and Booeher (2010), all emphasize the importance of collaboration, and that collaboration is the optimal choice over combative and competitive planning practices. The costs of hierarchical and combative land and natural resource planning processes include long drawn lawsuits, bad press, and fractured policy making. Thus, rather than work against each other, the better option is to work together, even if that means a slow and sometimes arduous process. Collaboration is the morally justifiable option in contrast to the other more aggressive alternatives, such as excluding communities from their land, water, and the planning process. In other words, collaboration is the "rational" choice. However, rather than emphasizing traditional instrumental rationality, Susskind, Innes, and Boeher contend that it is important to deconstruct and reconstruct what is meant by "rational".

Although collaborative planning theories are responding to traditional instrumentally "rational" forms of planning, they are also advocating for a new understanding of what is exactly rational. Innes and Booher (2010) make a case that collaboration is rational. A collaboratively rational process is one in which, ``all the affected interests jointly engage in face to face

216

dialogue, bringing their various perspectives to the table", and all participants are "fully informed and able to express their views and be listened to, whether they are powerful or not" (Innes and Booher, 2010, p.6). However, unlike traditional instrumental rationality, which prioritizes utilitarian and economic benefits, collaborative rationality is one grounded in authentic dialogue among diverse and interdependent agents. Thus, in this sense, collaboratively "rational" practices are not unlike deliberative practices. Furthermore, similar to multicultural planning processes, collaborative processes aim to respect the diversity of the experiences, values, and perspectives in the community. Dialogue, discourse, and diversity are preferable to the other option, conflict and exclusion.

Combative planning often results in litigation. Litigation and court cases introduce uncertainty, are expensive, and can take a long time. Therefore, litigation is not a rational choice in instrumental or normative terms. However, litigation, or the threat thereof, can lead to more positive planning practices. In both cases, litigation is what ultimately led to more collaborative planning practices. The reason why is because in comparison to litigation, negotiation and collaboration are a less costly and more certain option (R. Lewis WRRC Conference, June 9, 2015). Collaboration and negotiation is preferable to long drawn out lawsuits and court cases with highly uneven and unpredictable rulings. As Michael Bogert, former legal counsel to the U.S. Department of Interior notes, "… there is really no other alternative but to negotiate, sometimes endlessly, sometimes to a mind numbing degree, as opposed to the alternative of litigation" (M. Bogert, NARF Symposium, August 25, 2015). Thus, the ultimate goal for tribes and indigenous communities introducing litigation is not so much to litigate, but to force the preferable alternative of collaboration.

Collaboration is normatively rational and societally beneficial because it is not about winners and losers. Along with cost, time, and uncertainty, perhaps the biggest flaw with litigation is that it results in clear-cut winners and losers. Moreover, the "winners" and "losers" more often than not have less to do with the facts or justice, and more often to with the legal process and politics. Indigenous and Native natural resource and land use planning does not have to be about winners and losers. Both case studies illustrate that collaborative planning practices lead to outcomes where everyone is a "winner".

The AWSA has been about as close to a "win-win" for all of the parties involved as possible. As a result of the AWSA, all of Arizona, Central Arizona, and the Gila River Indian Community (GRIC) have benefited from the waters of the Gila River (R. Lewis WRRC Conference, June 9, 2015). Furthermore, all parties have benefited from compromise. The state and local governments in Arizona save money and resources that they would have spent on long drawn out court litigation. For foregoing additional water rights that could have been obtained in litigation, the tribes receive monetary benefits from the government. In turn, these funds allow the GRIC to build irrigation systems that it could not have built on its own. (R. Lewis, Symposium, August 25, 2015). By returning water to the GRIC, the healing process can begin. Water stolen by settlers and private users centuries ago is finally being returned to the GRIC. One of the greatest benefits of collaborative planning practices is that they can help address past wrongs.

Collaborative planning practices empower disenfranchised communities. The AWSA has resulted in economic and agriculture development not seen in the Gila River Valley region since the 1800s (D. DeJong, WRRC Conference, June 10, 2015). A benefit of this newly revitalized commercial production is that it has led to more economic development and employment in the

GRIC. The GRIC's Gila River Farms and Global Native currently employ 84 tribal members and produce a significant amount of revenue for the tribe (N. DeWeaver, WRRC Conference, June 9, 2015). All of the positive growth is the result of the AWSA and collaborative planning. None of these advances would have occurred had the GRIC, the State of Arizona, and other private stakeholders not worked together. Unlike the previous planning processes utilized by the State of Arizona, which locked out the GRIC, the AWSA encourages collaborative planning that distributes benefits more evenly across stakeholders and brings in a variety of perspectives.

Besides benefiting the stakeholders, the entire water resource and land-use planning process benefits from a diversity of perspectives. Consensus based approaches that emphasize a diversity of perspectives allow for more creative and inspiring ways to solve problems (T. Jackson, WRRC Conference, June 9, 2015). Adaptive, flexible, innovative, and collaborative approaches to planning also have the benefit of being more sustainable over the long haul. Old competitive and combative practices are replaced by new collaborative and multicultural approaches.

Collaborative planning processes, such as the AWSA, set a pattern of behavior for how the states interact with the tribal entities. As a result, there is now a framework to resolve future disputes and concerns. As noted by Rodney Lewis, former GRIC General Counsel…

> "There is a way, a pattern in which issues can be attacked, looked at and analyzed and eventually resolved. I think all of that flows from a Water Rights Settlement. All the work which was accomplished in the Water Rights Settlement is not only toward developing the water, not only for getting the stability for a quantified amount for water, but also it leads toward developing a such kind of pattern for resolving other issues that exist between the state and the tribe"—Rodney Lewis, Former General Counsel GRIC (R. Lewis, NARF Symposium, August 25, 2015).

There is now a framework for collaboration and negotiation that has led to less disputes. The AWSA has resulted in the GRIC collaborating regularly with the State of Arizona and entities

around the reservation regarding matters of water storage and resources (R. Lewis, NARF Symposium, August 25, 2015). Collaboration is normatively "rational" because it builds formalized relationships between communities who were previously at odds.

Similar to the GRIC and AWSA case study, the story of Kaho'olawe illustrates why collaboration is the "rational" and societally beneficial choice over conflict. Conflict-based planning results in everyone losing out in the end. In the long run, time and money are wasted. This was the case with the U.S. Navy and Kaho'olawe. The Department of Defense's (DOD) combative planning resulted in protests, lawsuits, and embarrassment for the Navy. It was not until the end of the military annexation that the Navy chose to employ some collaborative planning practices. By this point, the DOD had learned that collaboration was preferable to continuing with the lawsuits, protests, and bad press (M. Naho'opi'i, Personal Communication, September 19, 2014). Although the switch in tactics was a case of "a little too late" for the Navy, the State of Hawaii was able to learn from the Navy's mistakes. After the hand off of Kaho'olawe from the federal government, the State of Hawaii employed a much different tactic to managing the island and working with the Native Hawaiian community.

KIRC, a State of Hawaii government agency, operates in a communitarian fashion. Commissioners are appointed from the Native Hawaiian community, and KIRC employs multicultural planning practices designed to engage the Native Hawaiian community. Whatever concerns the State of Hawaii may have with Kaho'olawe, particularly diminishing funding and unexploded ordinance, community conflict is not one of them. The benefits of a collaborative ommunity-oriented strategy are definitive for Kaho'olawe and the State of Hawaii. Today, there are no more lawsuits and the protests have ceased. The healing of the community and the Aina has begun.

Another benefit illustrating the normative and value-based rationality of the State of Hawaii's collaborative approach is that Kaho'olawe is one of the rare instances in U.S. history where land taken away by the federal government will be returned to an indigenous people. The State of Hawaii will keep Kaho'olawe in a trust until it is in good enough condition to be returned to the Native Hawaiian people. KIRC sees itself as trustees managing the island until that day. The goal of KIRC is to clean Kaho'olawe to the point where people can live on it (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). Ultimately, Kaho'olawe will once again become a place for traditional Native Hawaiian cultural practices.

KIRC is trying to recreate the environment where Native Hawaiian culture evolved. The first Pacific Islanders to Hawaii arrived on Kaho'olawe and adapted their Pacific voyaging traditions to what they saw in that environment. KIRC is restoring the environment on Kaho'olawe with the purpose of reintroducing cultural practice to Native Hawaiians and all of the people of Hawaii. Rather than focusing on keeping the land pristine, the purpose is to restore the land for traditional indigenous culture and cultural training. A significant part of this effort involves planting hardpan, replenishing traditional fish stock, and repairing damaged aquifers to facilitate traditional fishing, fish farming, and growing taro (M. Naho'opi'i, Personal Communication, September 19, 2014). By restoring Kaho'olawe to its original, pre-colonial, state, the goal is to make it a place of cultural and spiritual learning.

Ultimately, the collaborative planning is the normatively rational and societally beneficial choice because it starts the process of reconciliation. Similar to how the AWSA has aided in healing old wounds, the return of Kaho'olawe is the first step in a long process of addressing past wrongs committed against the Native Hawaiian people. The theft of Hawaiian land by U.S. business interests and the desecration of sacred land, such as Kaho'olawe, by colonists, tourists,

and the military, have left a gulf between the Native Hawaiian community and the United States government. It will take years of goodwill, discourse, and collaboration to even begin to address these differences. With the current roll out to determine who is part of the Native Hawaiian population, Native Hawaiian sovereignty is a reality for the first time since the annexation of Hawaii. Kaho'olawe is a potential home for the newly created Native Hawaiian government. KIRC will work towards these goals through collaborative planning practices.

Both the AWSA and the return of Kaho'olawe illustrate why collaboration is normatively rational and societally beneficial. In both cases, collaborative planning has empowered communities, educated, healed old wounds, and benefited all. The benefits of collaborative planning are especially clear when one looks at the Gila River and Kaho'olawe prior to the AWSA and KIRC. Water and land were stolen. Sacred land damaged. Endless lawsuits. Communities alienated. Both cases are in a much better situation today than they were yesterday. When one considers a different definition of rationality that emphasizes that all affected interests jointly engage in dialogue, and that all interests, regardless of political and financial resources, are fully informed and able to express their views, then collaboration is definitively the normatively rational choice.

2. Distinctions between case studies

Along with the recurring themes, there were also strong contextual and thematic distinctions between the two case studies. Both case studies have distinctly different histories, and are located in different places with distinct political institutions and cultures. The Gila River Indian Community (GRIC) is a sovereign reservation. On the other hand, the Native Hawaiian people do not have a sovereign government or sovereign land, yet. Arizona and Hawaii could not be further apart along the cultural and political spectrum. Arizona is a longtime Republican

222

stronghold Red State. Whether it is regressive immigration or "religious freedom" laws, or being the last state to ratify the Martin Luther King Jr. Holiday, Arizona politics are as far right as any state in the Union. Hawaii, on the other hand, is a longtime Democratic stronghold Blue State. Hawaii has long supported Gay Rights, and the multicultural sensibility and spirits of Ohana and Aloha are ingrained in all aspects of life. Thus, both case studies, including how collaborative planning was manifested and carried out, were and are influenced by these strong and distinct contextual factors.

a. Arizona's conservative political culture and institutions

The long battle for water rights by the Gila River Indian Community (GRIC) is embedded in a uniquely Arizonian historical, cultural, political, and geographical context. Arizona is a dry, hardscrabble place with a difficult history. Much of the history of Arizona revolves around the fight for water rights. Moreover, much of Arizona's history involves Native American water being stolen by white settlers. The tribes have always needed water to survive and have only been able to gain any leverage through the Winters Doctrine. However, the GRIC's neighbors and other non-tribal users also need water. Given the stakes, the fight for water rights in Arizona have been especially contentious. Furthermore, the fight over tribal water rights in Arizona has many characteristics that make it uniquely Arizonian.

Besides the geographic, economic, and climate context, one must also understand the political context of Arizona in order to get the full story of the AWSA. The State of Arizona, in and of itself, had and has unique characteristics that both facilitated and confounded the collaboration and negotiation process. First, it is important to note that two thirds of the land in Arizona is federal and Indian (R. Lewis WRRC Conference, June 9, 2015). Thus, the GRIC and the other reservations are not insignificant tracts of land tucked away from "mainstream"

Arizona. Furthermore, Native water rights claims, including the Gila River, are addressed and adjudicated on the state or local level in Arizona, where public officials and agencies have historically been hostile towards Native American concerns (R. Lewis WRRC Conference, June 9, 2015). There are several reasons for this hostility, one being that the battle for water rights between the federal government and reservations versus the states represents as much sovereignty to the states as any one single resource element that one can match (M. Bogert, NARF Symposium, August 25, 2015). Moreover, of the Southwestern states, Arizona has one of the longest histories of acrimony towards Native American water rights claims.

Not surprisingly, historically, there have been few advocates for Native American water rights within the State of Arizona governmental or political structure. Unlike other states in the Southwest, the tribes in Arizona almost always initiated the water rights negotiation process themselves (J. Weldon, NARF Symposium, August 25, 2015). Tribal water rights concerns and claims have almost never been initiated and addressed within the State of Arizona governance structure. The GRIC and other tribes in Arizona have always had to fight with the State of Arizona for their water (R. Lewis WRRC Conference, June 9, 2015). Moreover, the negative reception by the State of Arizona towards tribal water rights goes beyond States' Rights advocacy or how water rights negotiations are structured in the State. Ultimately, there are core values and beliefs within Arizona's social, cultural, and political fabric that are hostile towards immigrants, the poor, minorities, and Native peoples.

It can be argued that Arizona is one of the most conservative and the reddest of the Red States in the entire Union. Whether it is Arizona's history of not ratifying the Martin Luther King Holiday, or constantly pushing forward anti-immigrant and anti-Gay initiatives, it is not a leap to conclude that the State historically has not been welcoming of minority communities and

interests. Arizona has yet to elect a person of color as Governor. Furthermore, although there have been Native Americans elected as state representatives and state senators, despite having a large Native American population, Arizona has yet to elect a Native American to the U.S. Senate or House of Representatives. One only has to visit Arizona to see visible examples of the State's conservative political culture. The anti-immigrant and borderline racist anti-Obama rhetoric during the 2014 gubernatorial campaign alone was shocking and depressing (Gila River Field Notes, July 8, 2014). Therefore, it is not a leap to conclude that the anti minority, immigrant, and gay sentiment and attitude often expressed in Arizona extend towards Native American water resource policy and management.

Despite a significant Native influence in the population and culture of Arizona, Arizona has never been a particularly friendly place for the Pima, Maricopa, and other tribes. Arizona has always been a very difficult place to live for Native Americans. Native Americans have been discriminated against and have been the target of racial prejudice in Arizona. The racial prejudice towards Native Americans has also affected water rights concerns (R. Lewis WRRC Conference, June 9, 2015). Thus, when looking at land-use and natural resource planning in Arizona, including water rights adjudication and negotiations, one must remember the hardline political and cultural context. Arizona's politics are so far right that they stand in stark contrast to most other states.

b. Hawaii's progressive political culture and institutions

In contrast to Arizona, Hawaii has a track record of embracing of diversity, including the relative integration of Native Hawaiians into Hawaiian politics and policy. For instance, although Arizona has yet to elect a Native American or person of color as Governor, Hawaii has elected a Native Hawaiian Governor, former community activist John Waihee. Furthermore,

although Arizona has yet to elect a Native American to the U.S. Senate or House, Hawaii has elected Native Hawaiian U.S. Senators and Representatives, most notably, former U.S. Senator Daniel Akaka. Therefore, one can point to specific examples of how Hawaii's political culture and institutions differ from the State of Arizona.

One possible explanation for the higher degree of integration of indigenous peoples and issues in the State of Hawaii, at least in contrast to the State of Arizona, is the influence of Hawaiian culture throughout many different aspects of daily life. People born and raised in Hawaii often emphasize certain Hawaiian cultural beliefs and practices, such as the importance of Ohana/family, Aloha/friendliness, and kuleana/responsibility. Moreover, many of these cultural beliefs also influence how officials and agencies interact with the public, and how the public at large views and accepts Native Hawaiian people and culture (M. Naho'opi'i, Personal Communication, September 19, 2014). Therefore, the integration of Native Hawaiians in Hawaiian politics and government, as well as the general support for progressive politics (e.g. Gay marriage, immigrant rights), at least in comparison to conservative states such as Arizona, is due in part to this broadly embraced Hawaiian cultural orientation. However, the distinctions between Hawaiian and Arizonan political culture and institutions do not stop with the influence of Hawaiian culture. In addition to the influence of Native Hawaiian culture, much of the unique political culture of Hawaii can also be explained by the formal legal relationship that the State of Hawaii has with the Native Hawaiian people.

A significant factor for the uniqueness of Hawaiian political institutions and policies, especially in comparison to Arizona, is due to how Native Hawaiians are recognized, or rather not recognized, by the U.S. government. As federally recognized tribes on federally recognized sovereign tribal land, Native American tribes, including the GRIC, negotiate primarily with the

federal government concerning land rights issues. Mainland tribes rarely, if ever, deal with the local and state government unless it is the resolve a dispute. This was why the GRIC had been at a disadvantage when addressing their water rights claims before the State of Arizona, which favored local and private water interests over Native interests, until the Winters Doctrine came into play (R. Lewis WRRC Conference, June 9, 2015). Native Hawaiians, on the other hand, have normalized relationships with the state and local governments of Hawaii.

Hawaii is unique in that, unlike most states, relationships with indigenous peoples are formalized in the State Constitution. Unlike Native American tribes, Native Hawaiians are not federally recognized, nor do Native Hawaiians reside on federally recognized sovereign land. In response to the lack of federal recognition of Native Hawaiians, the State of Hawaii has formalized its relationships with indigenous people unlike any other state in the Union. Thus, due to the lack of federal recognition, Native Hawaiians are regularly engaged with local and county government, and the State of Hawaii (M. Naho'opi'i, Personal Communication, September 19, 2014). The State of Hawaii has more programs and agencies focused on indigenous peoples than most other states in the Union. Native Hawaiian relations and community building is addressed primarily via the State of Hawaii Constitution created and mandated Office of Hawaiian Affairs (OHA). In essence, OHA performs the same duties and functions for the Native Hawaiians as the Bureau of Indian Affairs does for the federally recognized Native American tribes. The OHA is the agency tasked with addressing issues related to the indigenous population of Hawaii (i.e. the Native Hawaiians) (M. Naho'opi'i, Personal Communication, September 19, 2014). Within OHA, is the Kaho'olawe Island Reserve Commission (KIRC), the State of Hawaii agency tasked with working with the Native Hawaiian community on the future of Kaho'olawe.

Although a State of Hawaii-sponsored agency, KIRC commissioners are appointed primarily from the Native Hawaiian and local Maui community. KIRC is designed to empower and work collaboratively with the community. Not surprisingly, KIRC is just one example of how the State of Hawaii has generally taken an inclusive and multicultural approach to working with the Native Hawaiian community. For instance, the State of Hawaii recently created the Aha Moku Advisory Committee to address issues of traditional Hawaiian land (M. Naho'opi'i, Personal Communication, September 19, 2014). A State of Hawaiia agency, the Aha Moku Advisory Committee integrates traditional Hawaiian cultural practices.

The Aha Moku Advisory Committee exemplifies the State of Hawaii's community-driven philosophy and the spirit of Ohana. In Hawaiian culture, traditional land is divided into sub-divisions or Mokus. There are eight Mokus total, each with their own council and council president. The council presidents from each of the Mokus sit on the Advisory Committee and provide information to the Hawaiian Department of Land and Natural Resources (M. Naho'opi'i, Personal Communication, September 19, 2014). Similar to KIRC, the Aha Moku Advisory Committee is employing collaborative planning practices. Although KIRC and the Aha Moku Advisory Committee are not typical government agencies, their policy and planning practices are fairly common within OHA.

c. The Arizona Water Settlements Agreement and structured collaboration

The Arizona Water Settlement Agreement (AWSA) is the manifestation of collaborative and deliberative policy and planning concepts born out of conflict, litigation, activism, and Arizona politics. Whereas, the collaborative and communal practices of the State of Hawaii and Office of Hawaiian Affairs (OHA) sponsored Kaho'olawe Island Reserve Commission are very much rooted in the spirit of Ohana and Hawaiian culture, a closer look at the AWSA reveals a

formalized approach to collaboration and negotiation born out of the conflict that is at the heart

of Arizona politics.

> "Never let a good conflict stand in the way of an opportunity"—Clive Strong, Division Chief, Idaho Attorney General's Office, Natural Resources Division (C. Strong, NARF Symposium, August 25, 2015).

Conflict, or lawsuits and the threat of lawsuits in the Gila River Indian Community (GRIC) case

study, is what led to the AWSA. While legislators in the State of Hawaii are generally

sympathetic to indigenous concerns, what ultimately motivated Arizona State legislators to

negotiate was the realization that they would likely lose their water rights if the GRIC claim went

to the Supreme Court (R. Lewis, NARF Symposium, August 25, 2015). Thus, the threat of

litigation led to collaboration.

The collaboration found within the AWSA is in response to litigation and conflict. Due to

its legal origins, the AWSA utilizes a bi-furcated process that separates out the adjudication and

the negotiation components. Separating out the two allowed for a much bigger and more flexible

vision about how to get through the settlement process (C. Strong, NARF Symposium, August

25, 2015). Adjudication, or the threat thereof is the figurative "stick" or harsher alternative,

while negotiation is the "carrot" or more consensus based approach. As Rodney Lewis notes, one

(i.e. the law or threat of courts and lawsuits) drives the other (i.e. negotiations), and vice versa

(R. Lewis, NARF Symposium, August 25, 2015). Ultimately, the parties collaborate, as opposed

to litigate, because it is the preferable and more mutually beneficial choice.

Another important aspect of the AWSA designed to mitigate conflict and encourage

collaboration is risk sharing. The AWSA emphasizes the importance of risk sharing amongst all

of the parties involved. Risk sharing forces cooperation amongst bickering parties. (M. Bogert,

NARF Symposium, August 25, 2015). Rather than one party bearing all of the costs and risk, all

of the parties share the risk and work together in order to mitigate all costs. Thus, shared risk amongst all of the parties is critical for the negotiated settlement process (C. Strong, NARF Symposium, August 25, 2015). In the end, risk sharing is a much more optimal choice than the risk of one party bearing all of the risk, which results in conflict oriented adjudication. When parties have been at odds for years, formalized legal mechanisms are necessary in order to "encourage" collaboration.

As a response to years of conflict, settlement agreements are designed to perpetuate collaboration by preventing litigation. A critical aspect to negotiated settlements is that once the formal agreement is completed, litigation is no longer an option down the road. One of the key enforceable provisions of a completed settlement agreement is to not sue over future water rights disagreements (J. Hauter WRRC Conference, June 9, 2015). Thus, from here on out after the settlement agreement has been codified, the different stakeholders must come together and resolve their differences over water and land rights collaboratively. Ultimately, the AWSA and other settlement agreements are trying to institutionalize collaborative planning as the norm for future water rights dispute resolution.

Institutionalized and formalized collaborative practices, such as the AWSA, are particularly important in places with a history of conflict. Once the negotiated settlement is formalized, the groundwork is set for collaborative processes and practices that will persist long after. The AWSA has set a pattern of long-term behavior for Arizona (R. Lewis, NARF Symposium, August 25, 2015). However, prior to the AWSA, water resource planning in the State of Arizona was problematic and conflict-based. The GRIC was routinely locked out and excluded from the land and natural resources planning process. Things only changed once the

GRIC sued the State of Arizona. Therefore, although a model of collaborative and inclusive practices, the AWSA itself is the product of litigation and conflict.

d. The Kaho'olawe Island Reserve Commission and collaborative planning practices

Whereas the Arizona Water Settlement Agreement (AWSA) provides a formal structure of how the Gila River Indian Community (GRIC), the State of Arizona, and other stakeholders collaborate to resolve water rights disputes, the collaborative planning practices undertaken by the State of Hawaii have been driven more by an informal, but deeply rooted, sense of communal culture in Hawaii. Although federal lawsuits were critical in forcing collaborative planning practices in Arizona, and were also critical in ending the federal government and U.S. military occupation of Kaho'olawe, they have been less of a factor in how the State of Hawaii plans for and manages Kaho'olawe. In contrast to the combative and hierarchical planning approach employed by the U.S. military, the State of Hawaii, through the Office of Hawaiian Affairs (OHA), has embraced communal planning practices that fall in line with the Hawaiian culture (e.g. Ohana, Aloha, Kuleana). The primary Hawaiian state agency tasked with working on Kaho'olawe is the Kaho'olawe Island Reserve Commission (KIRC). As the agency tasked with working on Kaho'olawe, KIRC is responsible for working with the local Hawaiian community. However, unlike the institutionalized and codified collaboration found in the AWSA, KIRC takes a communitarian approach that is driven by a spirit that is present in many aspects of day-to-day Hawaiian life. One cannot look at KIRC and other Hawaiian government agencies without acknowledging the unique cultural context that is Hawaii.

Before discussing KIRC and the State of Hawaii's community-based approach, it is important to note that much of KIRC's collaborative planning practices were likely in response to the negative aspects of the U.S. Government and the Department of Defense's (DOD)

approach. As discussed, the U.S. military took an exclusionary and combative approach towards the management of Kaho'olawe and working, or rather not working, with the Native Hawaiian community from the end of World War II up until the early 1990s. The island was used as a bombing range with little to no regard for Native Hawaiian cultural and spiritual concerns. Matters only began to change once the Native Hawaiian community fought back in the form of protests and federal lawsuits. In a desire to minimize embarrassment and trouble, the U.S. military finally began to work with the Native Hawaiian community, including appointing Michael Naho'opi'i, as the Naval community liaison during the transfer of the island from the federal government back to the State of Hawaii (M. Naho'opi'i, Personal Communication, September 19, 2014). However, the collaborative planning practices did not become the norm until Kaho'olawe was formally transferred to the State of Hawaii. While one could assume that the State of Hawaii's collaborative planning of Kaho'olawe is in response to mistakes made by the federal government, KIRC embodies many traits of a Hawaiian agency.

Despite KIRC's official status as a government agency, the staff and volunteers view the organization differently. In the words of Kui Gapero, KIRC Cultural Resource Project Coordinator, "KIRC is a governmental agency that operates as a community organization" (K. Gapero, KIRC Mahina'ai Nights, July 31, 2015). Rather than taking a top down approach to policy adoption and implementation, KIRC employs a community-oriented approach to advance its mission. Being connected to the community is critical to how KIRC adopts and implements land-use policy and planning for Kaho'olawe, and is also a direct reflection of how business is usually handled in Hawaii. KIRC regularly engages in activities designed to inform, educate, and connect with the community, the Aina (land), and the Ohana (family).

Community engagement and empowerment are at the heart of KIRC's activities. KIRC regularly sponsors outreach, informational, educational, and volunteer events. The I OLA KANALOA community meetings, Mahina'ai Nights, Kihei boathouse cleanups, and trips to Kaho'olawe represent the norm of how KIRC conducts business. Besides being educational and informative, the KIRC sponsored community activities are a unique Hawaiian experience. The events fit into the broader context of Hawaiian culture. Attending the Mahina'ai Night event in person, I was able to see firsthand how KIRC's community-oriented and collaborative efforts were strongly influenced by the spirits of Aloha and Ohana. Although KIRC is a governmental agency, which from personal experience can operate in a rigid and hierarchical manner, hierarchy and structure are de-emphasized at KIRC events. There was no delegating of work and nothing was beneath leadership staff. All of the staff and volunteers were pitching in and working equally. While this may seem odd to people from the mainland, this is the norm of how business is done in Hawaii. All staff, volunteers, and meeting attendees, including myself, also helped cleanup during the I OLA KANALOA meeting at the Maui Civic Center. Much as is the case with family gatherings in Hawaii, Hawaiian community events emphasize collaboration.

The Hawaiian community is an integral part of the Ohana/family of KIRC. The cleanup efforts on Kaho'olawe would not be possible without the volunteers. Volunteers have gladly picked up the gap left behind by the U.S. Navy. The community, families, students, and teachers have been providing a large part of the restoration work on Kaho'olawe (D. McGregor, PBS Hawaii Community Roundtable, May 2015). Whether Native Hawaiian, born on Hawaii, or transplant to Hawaii, the people of Maui and Hawaii understand the importance of the land and sacred places such as Kaho'olawe/Kanaloa.

KIRC understands the Hawaiian sensibility and incorporates this sensibility in its mission. The deeper motivation for involving volunteers from the community on Kaho'olawe is because KIRC and Hawaiian community leaders "want the people of Hawaii to participate in this healing…because…as they're healing the island…its transformative state that they heal themselves" (M. Naho'opi'i, PBS Hawaii Community Roundtable, May 2015). By working on the land/Aina, people not only develop a stronger connection to it, but also foster a better understanding of themselves. The collaborative planning practices employed by KIRC are Hawaiian cultural practices.

KIRC's informal but culturally rooted approach to collaboration and multicultural planning stands in marked contrast from the formalized procedures of the AWSA. KIRC's multicultural and collaborative practices are rooted in the history and culture of Hawaii, while the AWSA's structured negotiation and collaboration is in response to the history of conflict and culture of Arizona. However, despite differences, both the AWSA and KIRC illustrate why collaboration is the normatively rational and societally beneficial choice when it comes to land and natural resource planning. Rather than engage in protests and lawsuits, the State of Hawaii, KIRC, and the people of Hawaii are engaging in an ongoing discourse and developing communities of knowing. Communities are becoming empowered, the land is being care for, and people are being reconnected to the Aina. Similarly, the AWSA has brought and continues to bring the GRIC, the State of Arizona, and other Arizona stakeholders together.

3. Final thoughts on recurring themes and distinctions between case studies

Due to vastly different histories and politics, one would not expect to see any overlapping themes between the Gila River Indian Community (GRIC) and the Kaho'olawe case studies. Considering Arizona's history with immigrant and Gay rights, one could conclude that Arizona

is probably one of the most conservative states in the Union. In contrast to Arizona, Hawaiian politics have traditionally gravitated toward the liberal and progressive. However, despite these differences, both Arizona and Hawaii share the dubious distinction of centuries of mistreatment of Native and indigenous people.

Although the stories of the GRIC and the Arizona Water Settlement Agreement (AWSA), and Kaho'oalwe, are embedded in vastly different historical, cultural, geographical, and climatic contexts, at the core, both case studies are about disempowered and disenfranchised communities fighting to right past wrongs. The GRIC had their water stolen by private interests and the State of Arizona. Similarly, the Native Hawaiian people had their land stolen by private interests and the United States government and military. Both the long roads to the AWSA and the return of Kaho'olawe to the State of Hawaii, and eventually the Native Hawaiian people, are rooted in resistance and activism. The State of Arizona was not going to return the waters of the Gila River to the GRIC had Rodney Lewis not filed a federal lawsuit. Similarly, what ended the bombing on Kaho'olawe, and led to the eventual return of the island to the State of Hawaii, was community driven protests and federal lawsuits filed against the Department of Defense (DOD). Change and the eventual collaborative and multicultural planning practices observed in both cases did not come from the top-down. Rather, collaboration and inclusion came about in both cases due to disempowered communities actively fighting and seeking justice.

Whether it is indigenous land rights, the Civil Rights Movement, or the Women's Rights Movement, community-led activism has played a critical role in changing policy and planning practices. Dedicated community leaders drive the activism. These leaders are almost always from the disenfranchised communities, and are highly educated and can speak the languages of multiple audiences. As a result, these activists, multicultural translators, and leaders are able to

maintain credibility in their respective communities, all the while using their knowledge of mainstream laws, institutions, and processes to advance indigenous interests and values. On this research project, the multicultural translators and activist leaders were Rodney Lewis and Stephen Lewis in the GRIC, and Michael Naho'opi'i in Kaho'olawe. The impact of community leaders in both case studies can and should not be underestimated. By being educated within and outside of their respective communities, these multicultural and activist leaders were able to speak the language of government officials and private interests in the courtroom and during negotiations, while still communicating truthfully to their own communities. However, activism and extraordinary leaders are just part of the complex broader narrative of both case studies. Along with the efforts of dedicated leaders, the GRIC and Kaho'olawe case studies are embedded in complex broader historical and political contexts.

While community activism and leadership was instrumental, one must remember that the AWSA and Kaho'olawe are rare outliers that required a confluence of politics and history. The "victories" in the GRIC and Kaho'olawe case studies are rare victories for indigenous communities. There are other examples of disenfranchised communities protesting, mobilizing, and filing lawsuits, but coming up short in the end. The AWSA and return of Kaho'olawe needed multiple things going right at the right time. Some of these once in a lifetime events included the end of the Cold War and a rare moment in Arizona politics where legislators understood the importance of Native American water rights. Thus, as outliers, the lessons learned from both cases cannot be easily applied, with the expectation of similar results, to different contexts. However, despite the flukiness of the AWSA and the return of Kaho'olawe, there are still important and valuable lessons to be learned that can apply towards land and natural resource planning in general.

Above and beyond the specifics of how and why the AWSA and the return of Kaho'olawe occurred, more important are the valuable lessons that can be learned from the journey. First and foremost, it is important to learn from history. The wrongs committed against the Pima and Maricopa tribes, and the Native Hawaiian people, cannot be forgotten. Redress is just the beginning. Lessons must be learned. Most importantly, it is important to ensure that policy and planning processes in the future be mandated to be inclusive, collaborative, and multicultural. Otherwise, the result will be more environmental and social injustice.

If past wrongs are not addressed and new ones occur, disenfranchised communities can use the tactics of the GRIC and Native Hawaiian activists as a blueprint. The success of the activists in both case studies illustrate that protest can affect change. Moreover, the federal lawsuit can bolster activist efforts. The Environmental Protection Act, Historic Preservation Act, and the National American Graves Protection and Repatriation Act, are some of the federal statutes that disenfranchised communities can go to in circumstances of environmental injustice. However, disenfranchised communities should avoid costly and long drawn out lawsuits as much as possible. Rather, federal lawsuits should be used sparingly as a means to force access and work towards more collaboration and inclusion. Ultimately, the lawsuits in the AWSA and Kaho'olawe case studies were not the positives, but rather means to an end. In addition to being a call to action, perhaps the greatest lesson to be learned from the AWSA and Kaho'olawe case studies is the value of holistic, communal, collaborative, and communicative planning practices.

The AWSA and Kaho'olawe case studies provide strong evidence that collaboration is normatively rational and societally beneficial, and that the land-use and natural resource planning process needs to be open, fair, and just. Both the GRIC and the Native Hawaiian community were determined to right past wrongs and gain access to processes that were

237

exclusive and elitist. With the help of key political allies, federal statutes, and global events, the GRIC and Native Hawaiian activists were able to bring about collaborative and multicultural planning practices.

Both the AWSA and KIRC case studies illustrate that collaborative planning practices can emerge in different historical, political, and cultural contexts. As the byproduct of centuries of conflict over water rights, the AWSA is distinctly Arizonan. In contrast, collaborative planning practices emerged in Hawaii after decades of conflict with he U.S. military, only to be followed by communal planning practices employed by the State of Hawaii sponsored Kaho'olawe Island Reserve Commission. Despite cultural, historical, and political contextual nuances, both case studies are tangible examples of multicultural, collaborative, deliberative, and inclusive planning theories and principles in praxis. Thus, both case studies provide valuable insight into the theoretical and practical discussions about equitable planning practices.

4. From Non-democratic to equitable planning practices

The Gila River Indian Community (GRIC) /Arizona Water Settlement Agreement (AWSA) and Kaho'olawe/Kaho'olawe Island Reserve Commission (KIRC), case studies illustrate that planning processes and practices are not static. Throughout history, both cases have seen movement from non-democratic to more equitable planning practices. Both case studies provide theoretical and practical information on day-to-day collaborative, multicultural, and inclusive planning principles.

One of the purposes of this study was to analyze the two case studies by placing them in a broader theoretical framework. In order to help analyze and frame the case studies, a typology and classification system was developed. The typology categorizes different planning systems, including the case studies, on dimensions of combative to collaborative, and hierarchical or

disempowered to flat or empowered. Based on these dimensions, planning systems can be categorized as *non-democratic*, *symbolic*, *pluralistic*, or *equitable*.

Table 6: Classification of Findings (Non-Democratic to Equitable Planning)

	Combative/Winner-take-all	Collaborative
Disempowered (Hierarchical, Unilateral, Exclusive, and Uniform)	*Non Democratic Planning* (Non elite interests locked out of the process altogether, decisions only benefit a select few)	*Symbolic Planning* (Provides the illusion that community input matters, but decisions only made by a select few)
Empowered (Flat, Discursive, Inclusive, and Diverse)	*Pluralistic Planning* (All parties involved, but due to power and resource imbalances, competitively-based decisions normally favor elite interests)	*Equitable Planning* (All parties with stakes are meaningfully involved, particularly those who normally do not have a voice, throughout a collaborative process that seeks mutually beneficial solutions)

Source: Classification based on analysis of planning, policy, and political scientist theorists

Over time, both the Kaho'olawe and GRIC case studies have moved from the *non-democratic* to *equitable planning* classifications. In order to gravitate towards more collaborative forms of planning, both the GRIC and the Native Hawaiian activists fighting for the waters of the Gila River and Kaho'olawe, respectively, had to engage in combative *pluralistic planning*. Thus, much of the transformation of land and water resource planning in both case studies can be explained by activist/progressive planning theories. Moreover, many of the activists and community leaders, due to their education and experiences, also played the role of multicultural translators for their respective communities. Although at a disadvantage in terms of political and financial resources, the GRIC and Native Hawaiian activists, through their training and extensive knowledge, found ways to level the combative pluralistic playing field and

force the hands of state and federal agencies towards more multicultural, deliberative, inclusive, and collaborative planning practices.

For decades, the State of Arizona employed *non-democratic planning* concerning the Gila River and water rights. After private interests took their water away upstream, the GRIC had little sway or access to the water rights planning process. The State of Arizona employed *non-democratic planning* in the most extreme form, paying little to no attention to the water needs of the GRIC. The GRIC did not start the fight but found ways to move Gila River water rights management from *non-democratic planning* towards *pluralistic planning*. After Rodney Lewis became aware of the Winters Doctrine, the GRIC now had a dog in the fight for Arizona water. The process then moved towards *pluralistic planning*. Eventually, with the new awareness that the State of Arizona might lose their water rights, state legislators began to consider alternatives to their *non-democratic* and *pluralistic* approach. Thus, while it would be encouraging to assume that the State of Arizona and private water users in Arizona realized that they had committed a wrong in the past, collaboration and *equitable planning* only came to be in Arizona after the GRIC found a way to level the playing field.

The AWSA is a model for *equitable planning*, however, equitable planning practices only came to be after decades of *non-democratic* and *pluralistic planning*. In other words, the movement towards collaboration in Arizona water rights planning was not top-down, but rather the end result of activism and resistance by the GRIC. The journey from elite-driven to more collaborative planning was long and hard fought. After decades of exclusion and fighting, Arizona and the GRIC are in a better place today. As the AWSA became formalized and all of the parties were brought to the table, the planning process became *equitable*. Moreover, the *equitable planning* outlined by the AWSA is now the mandated standard of how Native water

240

rights must be negotiated in Arizona. Ultimately, *equitable planning* practices must strive to be

sustainable over the long haul.

Similar to the State of Arizona, the Department of Defense (DOD) and the United States

Navy took a hierarchical, *non-democratic* approach to the planning of Kaho'olawe. Native

Hawaiian spiritual and cultural concerns were routinely disregarded while the Navy used

Kaho'olawe, believed to be the home of Kanaloa, the Hawaiian god of the oceans, as a bombing

range. Matters did not become more *pluralistic* until Native Hawaiian activists began to actively

fight back in the form of protests and federal lawsuits. Activists landed on and occupied

Kaho'oalwe, and began to file lawsuits based on federal environmental and religious protection

laws. Similar to the impact of the Winters Doctrine in the Gila River, the National

Environmental Protect Act (NEPA), the National Historic Preservation Act, the American Indian

Religious Freedom Act (AIRFA), and the Native American Graves Protection and Repatriation

Act (NAGPR) helped Native Hawaiian activists equalize the planning playing field. Moreover,

similar to the GRIC and the AWSA, Native Hawaiian activists were able to force more

collaborative and *equitable planning* practices through protests and federal lawsuits, which led to

the U.S. government and military eventually returning the island.

The management and planning of Kaho'olawe did not become more inclusive,

multicultural, and collaborative until the formal transition of the island from the U.S. Navy to the

State of Hawaii. After decades of protests and lawsuits, and aided by the Hawaiian Delegation in

the U.S. Congress, Native Hawaiian activists were able to end the bombing on Kaho'olawe and

force out the U.S. military. The planning process for Kaho'olawe improved further once the

island was returned to the State of Hawaii. Kaho'olawe planning immediately went from

pluralistic to *equitable planning* due in great part to a noticeably different approach taken by the

State. The State of Hawaii created the Kaho'olawe Island Reserve Commission (KIRC), a state agency with leadership appointed from the Native Hawaiian community. Ultimately, with the aid of KIRC, Kaho'olawe will be returned to the Native Hawaiian people. KIRC is a government agency that operates as a community organization in that it applies collaborative, multicultural, inclusive, and deliberative planning principles. In other words, KIRC is a model and exemplar of *equitable planning* practices.

While the stories of the AWSA and Kaho'olawe provide inspiration and guidance for more *equitable planning* alternatives, there are still multiple issues of concern. First, there is always the danger that if collaboration is not maintained and communities not informed and empowered, *equitable planning* practices can always devolve to *non-democratic*, *pluralistic*, or *symbolic planning*. Second, both the AWSA and Kaho'olawe are outliers in the world of planning for a reason. If not for the Winters Doctrine and the unusual presence of sympathetic Arizona legislators and Democratic Governor Janet Napolitano, at the time of negotiations, the AWSA might not have occurred. Similarly, besides activism, the story of Kaho'olawe is also dependent on global history (i.e. the end of the Cold War) and a period of Hawaiian political history (e.g. senior U.S. Senator Daniel Inouye) that no longer exists. Although the GRIC and the AWSA, and Kaho'olawe and KIRC, are models for *equitable planning*, the collaborative and multicultural processes are always in jeopardy. Both cases being extreme outliers illustrate how rare *equitable planning* practices are in the grand scheme of land and natural resource planning in general.

B. Study Limitations

    1. Non-response and response bias (Access)

Due to the sensitivity and contentiousness of the topic, and potential issues with past distrust of academics and studies in general, access to government officials, tribal officials, community stakeholders, and internal tribal events was limited. Specifically regarding the Gila River Indian Community (GRIC), all prospective academic studies must go before the tribal council, make a presentation, and then gain conditional approval. From my conversation with Dr. Kyle Woodson, Assistant Coordinator for the GRIC Cultural Resource Management Program, getting approval for academic studies is quite difficult and rarely happens. Thus, attending community meetings and holding interviews on the GRIC reservation was not going to happen.

Despite not having formal tribal approval, I still attempted to contact different informants directly. Throughout the summer of 2014, I reached out to over twenty potential informants. Only a small number responded, and of that small number, only a few actually followed up after initial contact. For instance, although a few emails were exchanged with the Arizona Department of Water Resources (ADWR), the ADWR ultimately chose not to participate, or rather, they stopped responding to my emails. In the end, only Dr. Woodson agreed to a telephone conference. Thus, knowing the issues with access and nonresponse, Dr. Woodson suggested that I look for alternative methods to get information from and about the GRIC, rather than the traditional ethnographic approach of site visits and interviews.

The primary reason for the focus on symposia and conferences for the GRIC case study was due to access. Fortunately, there were two multi-day conferences that revolved around the GRIC, Native American water rights, and the Arizona Water Settlement Agreement (AWSA). One conference was the University of Arizona Water Resource Research Center (WRRC)

sponsored annual conference, which happened to be held on the GRIC. Part of the WRRC conference included a tour of the GRIC reservation, which allowed for some quick ethnographic observation. The other conference was the Native American Rights Fund (NARF) bi-annual symposium. Key informants, Governor Stephen Lewis, Rodney Lewis, and Dr. David DeJong, Director of the Pima-Maricopa Irrigation Project (PMIP), to name a few, were panelists at one or both of the conferences. The conference panels were extensive, with the panelists answering open-ended questions that were relevant to this study. Relevant panels were recorded, transcribed, and then coded and analyzed for themes. Although access and non-response were initially a concern, information was attained via alternative means.

Non-response and access were less of a concern with the Kaho'olawe and Kaho'olawe Island Reserve Commission (KIRC) case study. Michael Naho'opi'i, the executive director of KIRC agreed to an in-person interview immediately upon request. Furthermore, due in part to the fact that there is no sovereign Native Hawaiian land, approval for site visits was easier to obtain, especially since the community meetings and events that I attended were open to the general public and held in public spaces. For the most part, KIRC staff and volunteers were accessible and approachable. In particular, Kui Gapero, KIRC Cultural Resources Project Coordinator, was open and talked freely about KIRC and the efforts to project Kaho'olawe. Similarly, the State of Hawaii Office of Hawaiian Affairs (OHA) responded quickly, but deferred me to KIRC, an agency within OHA, and Naho'opi'I, since OHA officials felt that Naho'opi'i could speak at greater length about Kaho'olawe than they could. Overall, KIRC was easily accessible in terms of interviews, community meetings, and community events. However, in contrast to KIRC and Hawaiian government officials, the Native Hawaiian community activists proved to be a little less available.

There were issues of access with members of Protect Kaho'olawe Ohana (PKO) and the

U.S. military. Requests for interviews with different members of PKO were not returned, and

Naho'opi'i suggested that it would be best to not try to track down military officials due to the

likelihood of nonresponse on their part. However, as an active member of PKO and former

officer of the military, Naho'opi'i provided fair insight into the PKO and military perspectives.

Furthermore, the PKO and other Native Hawaiian and Hawaiian State perspectives were

observed in the PBS Hawaii Kaho'olawe roundtable panel, which included Davianna McGregor,

PKO Co-Coordinator, and John Waihee, former Governor of Hawaii. Similar to the WRRC and

NARF conferences, the PBS Hawaii community roundtable involved the panelists responding at

length to open-ended questions. The entire PBS roundtable was then recorded, transcribed, and

coded and analyzed for themes. Although access was challenging at times, I was still able to get

information from key informants.

Through the use of some creative thinking, I was able to find alternative means to obtain

information from key informants and site visits. Original research is always posed with

challenges, particularly ethnographic research. Rather than obtaining information from pre-

existing databases or previous studies, this study set out to find new information out in the field.

As a result, issues of access and nonresponse were always a potential concern. Despite

challenges encountered in the field, new information from interviews, conference and

symposium panels, community events, and site visits was obtained and analyzed. Furthermore,

the issues of access were also illuminating in and of themselves. The challenges encountered on

this study spoke to the uniqueness and difficulties associated with both case studies. Both case

studies focused on communities with difficult histories embroiled in highly contentious areas of

land-use and natural resource planning and policy. Thus, the issues of access, which are by-products of past conflict and distrust, are part of the unique stories of the GRIC and Kaho'olawe.

2. Generalizabilty/transferability

While generalizability was not a primary purpose of the study, one of the goals of the study was to find recommendations that could be transferred to other policy and planning contexts. Due to time, space, and place, both the Gila River Indian Community (GRIC) and the Arizona Water Settlement Agreement (AWSA), and the story of Kaho'oalwe, are embedded in particular contexts with themes that are deeply rooted in those contexts. The AWSA occurred at a unique point in United States and Arizona politics. Thus, some of the lessons and successes of the GRIC will likely not be replicated to other tribal water rights efforts in other Southwestern states. Similarly, the story of Kaho'olawe occurred at a unique point in time of global, U.S., and Hawaiian history. As activists working to end military drills in the Makua Valley on Oahu are finding out, the success of Kaho'olawe will likely not be duplicated anytime soon, even within the State of Hawaii. However, despite the limitations with generalizability, the study was able to find information that adds to the theoretical discourse on collaborative, multicultural, and progressive planning. Moreover, despite the contextual specificities, there are still valuable policy and planning lessons that can be transferred to other settings.

Both the GRIC and Kaho'olawe case studies provide practical data and information on collaborative planning principles in real world policy and planning settings. The contextual specificity speaks to how rare collaborative, multicultural, and deliberative planning practices are manifested in the real policy world. Moreover, the rare "victories" on the part of the GRIC and Native Hawaiian activists illustrate how stacked the land-use and natural resource planning and policy processes are against minority groups. The root cause of social and environmental

injustice is policy and planning processes that routinely lock out low income, minority, and immigrant communities. Thus, "victories" such as the AWSA and Kaho'olawe are rare by design, and are sadly not generalizability because of how the systems of land-use and natural resource policy and planning are structured. However, although rare, the lack of generalizability of the AWSA and Kaho'olawe experiences reinforces their benefits and what can be learned from them.

By illustrating how and why collaborative and multicultural planning practices are so rare in the real policy and planning world, both case studies make the case for why equitable planning practices are important now more than ever. Collaboration and deliberation are the societally beneficial and normatively rational choice in planning. The benefits of empowered communities, collaboration as opposed to drawn out lawsuits, and the establishment of sustainable working relationships, more than justify why planning needs to move in the direction of justice and equity. Rather than see the lack of generalizability of the findings as a methodological or theoretical flaw, it is more important to take action in order to ensure that success stories, such as the AWSA and Kaho'olawe, are no longer outliers.

C. Areas for Future Research

Areas of future research include the future of the Arizona Water Settlement Agreement (AWSA) and Kaho'olawe, and other case studies where, despite efforts to engage in alternative land-use and natural resource planning practices, the outcomes have not been as positive as they have been for the Gila River Indian Community (GRIC) or Kaho'olawe. Although the research questions of how and why such rare "victories" and positive outcomes such as the AWSA and the return of Kaho'olawe came to be, and how these collaborative planning practices are operationalized in the day-to-day policy and planning world, were answered to a certain extent,

there are always additional questions that can add depth to the discourse on collaborative, multicultural, and progressive planning practices.

Although the AWSA and the Kaho'olawe Island Reserve Commission (KIRC) are the products and exemplars of collaborative planning in praxis, there are still ongoing issues and concerns with both case studies. While the AWSA was a landmark water rights settlement that brought numerous, often conflicting, parties together, and until recently was the largest water rights settlement awarded to a Native American community, it will be of great interest to see how sustainable the agreement is given Arizona's historically Native-unfriendly politics paired with growing concern over the availability of water in the state. Moreover, how will GRIC leadership maintain consensus within the community, particularly between the traditionalists and the more development-friendly factions. Is there the danger of the GRIC becoming co-opted into the Arizona political mainstream? The GRIC and AWSA case study still poses many interesting questions.

Similar to the AWSA, the planning practices employed by KIRC and the State of Hawaii are a model for communitarian planning principles, and Kaho'olawe is one of the rare instances where land taken away by the U.S. government will be returned to an indigenous people. However, Kaho'olawe is still littered with unexploded ordinance, and the cash-strapped KIRC has had to layoff employees and has no idea where future funds will be coming from. Will the State of Hawaii and KIRC be able to honor its obligation to the Native Hawaiian people? Both the GRIC and AWSA, and the Kaho'olawe and KIRC, case studies are ongoing stories with uncertain futures. Future research might include revisiting the GRIC and Kaho'olawe in five years and then in ten years. The stories of the AWSA and Kaho'olawe are still being written.

Other potential areas for future research include case studies with similar contexts or factors (e.g. strong activism, federal lawsuits, multicultural translators) as the GRIC and Kaho'olawe, but that have not met with the same level of "success" as those case studies. For instance, there are other Native American reservations who have sued their respective states based on the Winters Doctrine, but whose cases are still being heard. In other words, the states and other stakeholders were not compelled to engage in more collaborative negotiations as they were in Arizona concerning the Gila River. These cases might provide additional insight into what makes, or does not make, collaborative and multicultural planning alternatives work in land-use and natural resource planning.

As for case studies with similar contexts to Kaho'olawe, the Makua Valley in Oahu and the controversial proposed telescope expansion on Mauna Kea on the Big Island are potential options. Despite working with organizers who had worked on Kaho'olawe, Native Hawaiian activists are having little success in getting the U.S. military to halt testing in the sacred Makua Valley. Although Mauna Kea is considered by Native Hawaiians to be sacred land, the Governor and legislature of Hawaii have been at odds with the community regarding a proposed telescope expansion on the volcano. Although the State of Hawaii has been an exemplar as far as Kaho'olawe is concerned, the same cannot be said about Mauna Kea.

Despite similar factors and tactics, other reservations and activists have not had the same level of success as the GRIC or Kaho'olawe. Future research could help tease out why activism and lawsuits facilitate collaborative planning in some cases but not others, and what are the costs, as opposed to benefits, of prolonged non-democratic planning. In the potential cases where there have not been the same level of success, is it due to the fact the both the AWSA and Kaho'olawe were embedded in such unique historical, political, organizational, and cultural

contexts that they cannot be replicated to other sites? Moreover, what are the long-term costs of continuing on with non-democratic planning practices? Additional research might provide some insight into the sustainability, transferability, and durability of collaborative, multicultural, and progressive planning concepts and principles, as well as the long-term dangers of combative and exclusive planning processes.

Finally, another area of future research might be to look at international case studies. Intuitively, other former Crown Colonies (e.g. Canada, Australia, and New Zealand) would make sense for case study analysis because of similar historical, cultural, and political factors (e.g. The Church of England, Westminster Model, the English language). However, case studies outside of the Crown Colony context could also provide interesting insight on why some indigenous communities are better able to leverage resources (e.g. financial, political), and empower themselves in the land and nature resource planning process. Some of the potential non-Crown Colony international case studies include, India, the Andean states, Bolivia, Japan, and Taiwan. Thus, there are many opportunities for future research both domestically and internationally.

D. Policy Recommendations

Besides providing support for collaborative, multicultural, and progressive planning theories and principles in day-to-day policy and planning contexts, the Gila River Indian Community (GRIC) and Arizona Water Settlement Agreement (AWSA), and the Kaho'olawe and Kaho'olawe Island Reserve Commission (KIRC), case studies also support policy recommendations. Most notably, in order for collaborative and multicultural planning practices to sustain over the long run, government funding and support is critical.

1. Dedicated federal funding for collaborative settlement agreements

Federal funding and support for collaborative working agreements, such as the AWSA, is desperately needed. Collaborative working arrangements and settlement agreements are resource and time intensive. Multiple stakeholders from the community, all levels of governance, and the private sector must be brought on board. Moreover, due to longstanding conflicts, the settlement agreement process itself can take years. Thus, with all of the parties involved and issues to sort through, there are going to be logistical expenses. However, funding has for settlement agreements have diminished over the years. Government officials and legislators should remember that the settlement and negotiation process is the much more cost-beneficial and cost-effective alternative to conflict, and drawn out and expensive lawsuits. Moreover, conflict and lawsuits result in bad press for the government agencies involved. Collaboration is costly but is still the mutually beneficial alternative to conflict.

2. Funding and support for community-based government agencies

Funding and support for government agencies that operate based on bottom-up communitarian principles, such as the KIRC, an agency of the State of Hawaii, is critical. The benefits of KIRC's community-oriented approach include a much less contentious planning process than when the island was under the jurisdiction of the U.S. military, an engaged local Hawaiian community, and an empowered Native Hawaiian community. However, KIRC is in need of funds. With the federal money in the trust fund running out, KIRC is seeking funding from the State of Hawaii. Michael Naho'opi'i and staff are regularly going back to the State of Hawaii Legislature with different funding bills and packages (M. Naho'opi'i, Personal Communication, September 19, 2014). However, the State of Hawaii legislature has not been completely responsive. Without funding, whether it is state, federal, or private, KIRC will not be

able to continue with its collaborative, multicultural, and community-based mission. In the absence of community-oriented agencies such as KIRC, land and natural resource planning will devolve back to being hierarchical and combative. The collaborative planning principles employed by agencies such as KIRC yield benefits that justify financial and programmatic support.

3. Federal scholarship programs for underrepresented communities

Finally, it is important to continue or bring back federal minority scholarship programs, such as the Indian Law Scholarship, to ensure that there will be another generation of activists, leaders, and professionals from communities traditionally disenfranchised and disempowered in the policy and planning process. Programs, such as the Indian Law Program, pay off in the long run. In the early 70s, there were approximately less than a dozen Native lawyers working on Native land and water rights issues. Today, there are over 2,000 Native American lawyers in the United States advancing Native American issues. That increase in Native American lawyers can be directly attributed to the Indian Law Program and other Native American education and empowerment programs (J. Echohawk, NARF Symposium, August 25, 2015). According to Rodney Lewis, it is important that the number of Native American and Native Hawaiian lawyers and community leaders not only remains stable, but grows as well. Therefore, it is important to facilitate and enable more Pima, Maricopa, Navajo, Apache, and other youth from different tribes with educational opportunities (R. Lewis, WRRC Conference, June 10, 2015). Educating individuals from disenfranchised communities does more than benefit the disenfranchised communities. As the Gila River Indian Community and Kaho'olawe case studies illustrate, educated and empowered communities lead to more progressive and multicultural policy and

planning practices, which benefit all who want to see an end to environmental and social injustice.

The successes of John Echohawk, Rodney Lewis, and Michael Naho'opi'i, who not only went on to graduate from college and receive advanced degrees, but also returned to work for their respective communities, suggest that similar successes can be duplicated in other instances. All three benefited from education programs and opportunities. Land and natural resource planning can only grow, evolve, and transform through greater inclusion, and cultural and epistemological diversity. As the case studies illustrate, diversity and inclusion is more likely to happen if the disenfranchised communities are empowered. Education and opportunity is critical to that empowerment.

CONCLUSION

The ultimate goal of deliberative, collaborative, progressive, inclusive, and multicultural planning practices is to empower disenfranchised communities, and to encourage divergent and often-conflicting interests to work together. Minority communities, including indigenous peoples, historically have been marginalized and locked out of the land-use and natural resource policy and planning processes. As a result, democracy is compromised, and social and environmental injustice become more prevalent. The lack of inclusiveness in the land and natural resource policy and planning process is exacerbated by the prevailing policy and planning culture, which emphasizes competitiveness and economic benefits over collaboration and social justice. In response to social and environmental injustice, and the competitive and economically skewed traditional policy and planning practices, theorists contend that the process needs to become more deliberative, inclusive, collaborative, and multicultural in order to ensure a healthy democracy. However, while collaboration and inclusion is good in theory, it can be

argued that cultural and epistemological diversity is not feasible given the current state of mainstream planning.

Although existing primarily in theory, there are real world examples of deliberative, inclusive, collaborative, multicultural, and progressive policy and planning processes. Going into this study, it was my intention to observe, analyze, and explain what leads to equitable policy and planning practices in real world cases. Moreover, in order to test the rigorousness of collaborative and multicultural planning principles, I chose to focus on case studies that existed in the most contested historical contexts. While one never wants to engage in the exercise of what group or community has suffered the most at the hands of exclusionary, hierarchical, and colonial planning practices, Native American and Native Hawaiian land and natural resource planning arguably challenges the feasibility of multicultural and collaborative planning principles the most. The reason behind this assertion is because Native American and Native Hawaiian land and natural resource planning involves the management of land and water that previously was under Native American and Native Hawaiian stewardship but is now the property of the U.S. or state governments, or private interests.

Despite the historic difficulties and challenges, there are a few rare examples where land and natural resource planning practices and agencies have empowered and enfranchised Native American and Native Hawaiian communities. These rare instances provide examples of collaborative, multicultural, and progressive planning principles in praxis. One of the case studies was the Gila River Indian Community (GRIC) and the Arizona Water Settlement Agreement (AWSA) of 2004. The largest Native American water rights settlement at the time, the AWSA rewarded, or rather returned what was stolen long ago, to the GRIC. In addition to being one of the rare instances where planning righted a past wrong, the AWSA was also the

product of unprecedented collaboration between the GRIC, the State of Arizona, and other private stakeholders.

The second case study was the Hawaiian island of Kaho'olawe and the State of Hawaii agency, the Kaho'olawe Island Reserve Commission (KIRC). Kaho'olawe is one of the rare instances where land taken away from the federal government will be returned to an indigenous people. Besides being a rare "success" story in indigenous planning, the story of Kaho'olawe also provided an opportunity to compare and contrast the federal government's combative planning approach to the State of Hawaii's collaborative and inclusive planning practices. Both case studies provided a wealth of real world information on collaborative, multicultural, and progressive planning theories.

Although based on preliminary research, there were some expectations going into the study, the interviews, panels, site visits, and community events revealed new and interesting themes. At initial glance, both the AWSA and Kaho'olawe case studies appear to be clear-cut real world examples of collaborative, deliberative, and multicultural planning principles. Whether it was stakeholders from tribal governments, state agencies, and private interests coming together for the Native American Rights Fund Western water rights symposium, or the Kaho'olawe Island Reserve Commission (KIRC) reaching out to and working with the local Maui community, there were plenty of examples that illustrated how the AWSA and KIRC have facilitated positive collaboration and discourse. However, the how and why the AWSA and KIRC came to be were not clear without digging deeper.

Both the AWSA and the return of Kaho'olawe came about due in great part to the agency and efforts of community leaders, activists, and multicultural translators, and somewhat surprisingly, the support of federal lawsuits. In other words, rather than emerge spontaneously,

or occur top-down via the benevolence of progressively minded agencies and officials, both the AWSA and the return of Kaho'olawe was initiated bottom-up from the communities that had been locked out of the land and natural resource planning process. Thus, much of the transformation of the land, water, and natural resource planning practices in both case studies can be analyzed as real world examples of activist/progressive planning theory, and the works of Paul Davidoff, Norman Krumholz, and John Forester. However, along with activism, it is also important to emphasize how the community leaders used their knowledge and training to navigate across different institutions and processes to advance their communities' interests.

Due to social and political inequalities and barriers, including an imbalance of political and financial resources, the GRIC and the Native Hawaiian communities had to find ways to level the playing field. Fortunately, both the GRIC and the Native Hawaiian activists fighting for Kaho'olawe had leadership that was well-versed and trained in the institutions (e.g. laws, courts) of mainstream planning, who were then able to speak the language of and use these institutions in their community's favor. In other words, many of the activists and leaders within the GRIC and the Native Hawaiian community were acting as multicultural translators, advancing more culturally and epistemologically diverse policy and planning practices (Umemoto, 2001; Burayidi, 2000). Especially critical to the efforts of the activists and multicultural translators was their knowledge of the law. It is here where one of the first surprising themes began to emerge. In interviews and panels for both case studies, informants all noted the impact of federal statutes and lawsuits in helping the GRIC and Native Hawaiians to finally force federal, state, and local officials, and private interests to listen.

The importance of federal laws and statutes in both case studies was unanticipated, but not altogether surprising. Given the history of federal lawsuits in the Civil Rights, Women's

256

Rights, and Environmental Movements, it makes intuitive sense that federal statutes aided in

both forcing the negotiations that led to the AWSA and ending the bombing on Kaho'olawe. The

1908 Winters Doctrine ruling, which established first-use as the primary criterion for

determining water rights in the country, was the game changer for the GRIC. In the case of

Kaho'olawe, it was a combination of the Environmental Protection Act, the National Historic

Preservation Act, the American Indian Religious Freedom Act, and the Native American Graves

Protection and Repatriation Act that enabled Native Hawaiian activists to protect Kaho'olawe,

end the bombing, and gain access to the island for religious ceremonies. Rather than deal with

ongoing lawsuits, many of which they likely would not win, the federal government, state

agencies, and private interests decided that it would be better to negotiate than adjudicate.

Lawsuits, or the threat thereof, leveled the playing field and forced collaboration. However, there

was more to the story than activism and lawsuits.

Another surprising theme was how both case studies benefited from a serendipitous

combination of political support and historical events on the global and domestic level. In other

words, both cases would likely have not played out in the same manner had they occurred at

different times. The AWSA was aided greatly by the political climate that the Clinton

Administration had set towards resolving Native American water rights issues in the 90s.

Additionally, in the early 2000s, when the AWSA was drafted and signed, Arizona had a unique

combination of state and federal officials who were sympathetic towards Native American water

rights. Similar to the political context in Arizona, the 90s were a time when federal legislators

from Hawaii were generally sympathetic towards and worked to advance Native Hawaiian land

rights issues. Moreover, the State of Hawaii had political capital in Congress in the name of

Senators Daniel Inouye and Daniel Akaka. As a result of their efforts, the bombing on

Kaho'olawe stopped sooner than later. Additionally, the end of the Cold War and the Clinton Administration's efforts to downsize the U.S. military expedited the return of Kaho'olawe to the State of Hawaii. Both the success stories of the AWSA and Kaho'olawe are embedded in very specific contexts of time and place.

A less surprising theme was how entrenched the AWSA is in Arizona politics and culture. Arizona is a conservative and Republican state. The political advertisements for the Arizona gubernatorial race in 2014 illustrated the deep conservatism of Arizona (Gila River Field Notes, July 8, 2014). Moreover, the conservatism extends to natural resource planning, especially as far as Native Americans are concerned. The land and water resource planning process within Arizona has historically been anti-Native American (R. Lewis WRRC Conference, June 9, 2015). Therefore, the AWSA coming to existence in this setting is quite amazing. Moreover, the fact that the AWSA is highly structured, including clear-cut provisions against future litigation, illustrate that the drafters understand how conflict is always on the horizon in Arizona natural resource and land use planning. The AWSA reflects the political culture of Arizona.

In contrast to how the AWSA is the product of the hard political culture of Arizona, the State of Hawaii agency, KIRC's community-based strategy is a manifestation of Hawaii's more progressive and inclusive political culture. In contrast to Arizona, Hawaii is perhaps the most Democratic state in the Union. Officials on the local, state, and federal level are overwhelmingly Democrat, and most of the Republicans in Hawaii historically have been closer in spirit and ideology to Democrats than most mainland Republicans (M. Naho'opi'i, Personal Communication, September 19, 2014). The support that Kaho'olawe received from Hawaiian

federal Congressional legislators and the community-oriented approach taken by the State of Hawaii-run KIRC are not surprising.

Both the AWSA and Kaho'olawe case studies are deeply embedded in contexts of time, place, and space. Kaho'olawe is a Hawaiian story and the AWSA is an Arizonan story. Moreover, the AWSA and Kaho'olawe are also embedded in unique historical and political contexts within their general cultural and geographic contexts. The AWSA and Kaho'olawe are outliers in the world of land and natural resource planning for a reason. It is rather unlikely that we will see another AWSA or Kaho'olawe anytime soon. Moreover, the stories of the AWSA and Kaho'olawe are still being written.

While the study found that equitable planning practices empowered communities, mitigated conflict, and led to more positive working relationships, it is important to remember that collaboration and negotiation are not the panacea of all of the society's ills. Although both the Gila River Indian Community (GRIC) and the Native Hawaiian community, at least concerning Kaho'olawe, are in a better place now than they were before the institution of collaborative, deliberative, and multicultural planning practices, there are still areas of concern. Some believe that the water rights returned to the GRIC and the collaborative relationships initiated by the AWSA are tenuous at best. Kaho'olawe is still in bad condition with little to no vegetation and aquifers, and unexploded ordinance making much of the island inaccessible. Where the AWSA and GRIC, and Kaho'olawe, go to from here is yet to be determined.

In many ways, the AWSA and the return of Kaho'olawe to the State of Hawaii, and eventually the Native Hawaiian people, should be seen as the beginning, and not end of a long journey. While both the AWSA, and the cease-fire on and return of Kaho'olawe, are the end of stories involving non-democratic followed by pluralistic planning practices, there are still

questions concerning the next phase involving the equitable planning of the Gila River and Kaho'oalwe. Are the settlement agreements sustainable given different long-term concerns, such as financial constraints and depleting natural resources? Although there is greater collaboration and negotiation, is co-optation of indigenous and Native interests going to be a problem? In order for the positives of the AWSA and Kaho'olawe to persist going forward, collaborative, multicultural, and inclusive planning must become the norm.

Despite their uniqueness and uncertain futures, there are still lessons from the AWSA/GRIC and Kaho'olawe that can be applied to all policy and planning contexts. For communities disempowered and disenfranchised in the land and natural resource policy and planning processes, both the GRIC and the Native Hawaiian activists fighting for Kaho'olawe offer some valuable strategies. First, both the successes of the GRIC and Kaho'olawe offer positive evidence that protest movements do work. Furthermore, both case studies showed that although there are structural, political, and financial inequalities in the policy and planning processes, there are ways of leveling the playing field. In both cases, federal statutes and lawsuits were the equalizer. However, the lessons learned from this study do not stop with the disenfranchised and disempowered communities.

For federal, state, and local officials, and private interests working with or against disenfranchised communities, the case studies support the idea that collaboration is instrumentally and normatively rational. Collaboration and cooperation is less costly and time consuming than protests and lawsuits. The lessons learned with Kaho'olawe and the AWSA could be applied to many ongoing cases of environmental conflict and dispute. Moreover, both case studies support the contention that collaboration is the mutually beneficial choice for everyone. Many of the tensions on Mauna Kea and Haleakala could have been avoided if

collaboration and communication had been implemented earlier on. Land-use and natural resource policy and planning does not have to be about winners and losers. Collaborative and multicultural planning results in benefits and positive outcomes for all interests and stakeholders. Combative planning, on the other hand, always results in some, if not all, parties losing.

Overly competitive, hierarchical, and exclusive land-use and natural planning processes that prioritize utilitarian principles and financial gains have led to and exacerbated social and environmental injustice. With the impending crises of climate change and social strife on the horizon, it is time to fundamentally transform how policy and planning are practiced in the U.S. and the world. Nobody wins when land use planning is mishandled, as was the case in Standing Rock or Flint, Michigan. Collaborative, multicultural, inclusive, deliberative, and progressive policy and planning theories all emphasize that importance of changing how policy and planning decisions are made and implemented. Land and natural resource policy and planning processes need to emphasize a greater sense of community, equity, and justice. Although they are outliers in the planning world, the AWSA and Kaho'olawe case studies illustrate that planning can be transformative. Land and natural resource policy and planning practices need to empower the disempowered, and encourage different interests to work together, in order to make this world more just and communal.

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263

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Key Informants

Gila River Indian Community and the Arizona Water Settlement Agreement

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