

2018 Hawai'i Access to Justice Conference
"Fighting for Access to Justice for All"
Friday, June 29, 2018

Workshop summary:¹

"Ensuring Access to Justice with the Revival of the Hawaiian Language"

Presenters: Moses Haia, Executive Director, Native Hawaiian Legal Corporation ("NHLC") (facilitator); Camille Kalama, staff attorney, NHLC

Kalama

S. Kaeikoa Ka`eo, Asst Prof in Hawaiian Language and Studies, was to have been a panelist, but was invited to conference in Washington, D.C. He felt this was an important forum and regrets not being here. His mana`o is included in this presentation.

Hawaiian Language:

Reflects symbiotic relationship with their environment. This is not a simple translation but incorporation of life (worldview, culture, concepts) within the language.

"Our language is critically endangered." More work needed to establish Hawaiian as a living language. We have the last generation of native speakers.

Historically, Hawaiians had high rate of literacy; laws were first drafted in Hawaiian and then translated to English. Value of inclusivity.

When made binary, then controversy about true meaning is inevitable because languages develop differently. Also, banning Hawaiian would advance assimilation, an attitude of paternalism. 1896 to 1986: law prohibiting teaching in Hawaiian. Punishment was mandated for use of Hawaiian--shame develops.

Laws were printed in Hawaiian and English until 1943. Western colonialism privileged English. There remains this privilege and perception that Hawaiian is secondary and inferior, e.g., a child would receive a better education outside of an immersion school.

This is a political issue. Language is synonymous with life and identity.

Just learning to speak Hawaiian does not mean fluency. Particularly difficult because there is no environment that allows true immersion (e.g., a student of the Japanese language can go to Japan).

Current Supreme Court case (oral arguments already conducted). Case originated out of Lanai where a first grader could not write in English. She was

sent to the school counselor, as if there was a problem. Circuit court summary judgment that there is no duty to provide appropriate education (even though Lanai received funding for two teachers, school spent funds for other things).

Haia

How to combat notion that Hawaiians who have not assimilated end up becoming losers, in prison, no employment. It is time to reclaim Hawaiian.

Prisoner issue: whether letters written in Hawaiian just go through process of review for possible unlawful activity.

Kalama

“Kaulike” concept of balance, justice, equality. This concept is linked to access, including, access to justice, access to correspondence (court cases re prisoners in two private prison in Arizona--treated differently from letters written in other languages).

This state has a policy to allow letters in Hawaiian language but it is not extended to the Arizona prisons. Probably money issue; need to hire translators.

Description of Maui case (with Samuel Kaleikoa Ka`eo) where the judge found that the defendant was not present because the defendant had made his appearance by speaking Hawaiian. Judge issued a bench warrant (even though defendant was standing in front of the judge). Note that the judge had also previously granted a prosecution motion requiring that the trial be conducted in Hawaiian and two years prior had sentenced the defendant in a similar case.

From Gandhi: “First they ignore you, then they laugh at you, then they fight you, then you win.” So goes the Hawaiian language.

Q & A

1. Still a problem that prison recognizes Christianity. Note that DPS didn't recognize Hawaiian religion until 2002.
2. Still a problem that “Hawaiian” can be taught as a culture but not as a religion or a way of being.
3. What progressive steps? Wider use of the language. Insuring selection of sympathetic decision makers who are open to being educated.

¹ A draft was prepared by Judge Frances Wong (ret.) and reviewed by the presenters.