

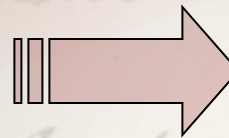
The Road to Recovery of Ending the American Occupation

Dr. Keanu Sai



Hawaiian State & Government

State Sovereignty
Hawai'i (1843)



Hawaiian
Kingdom
Government

Illegally
Overthrown
1893



The Law of Occupation

- Customary international law in 1893 obligated the United States, as the Occupying State, to administer the laws of the Hawaiian Kingdom and not the laws of the United States when they are in effective control of the territory
 - This obligation is now codified under Article 43 of the 1907 Hague Regulations and Article 64 of the 1949 Fourth Geneva Convention
- The U.S. did not administer Hawaiian Kingdom law but instead unilaterally annexed the Hawaiian Islands in 1898 during the Spanish-American War



Hawaiian State & Government

- According to Professor Brownlie:
 - “After the defeat of Nazi Germany in the Second World War the four major Allied powers assumed supreme power in Germany. The legal competence of the German State [its independence and sovereignty] did not, however, disappear. What occurred is akin to legal representation or agency of necessity. The German state continued to exist, and, indeed, the legal basis of the occupation depended on its existence”



Annexation is Unlawful

- Under international law, annexation of a State without its consent is unlawful
- According to *The Handbook of Humanitarian Law in Armed Conflicts* (1995):
 - “The international law of belligerent occupation must therefore be understood as meaning that the occupying power is not sovereign, but exercises provisional and temporary control over foreign territory. The legal situation of the territory can be altered only through a peace treaty. International law does not permit annexation of territory of another state”



Defining the State by International Law

- Regarding Palestine, the Israeli Foreign Minister Eban stated, “the existence of a State is a question of fact and not law”
- However, Judge Crawford explains:
 - “A State is not a fact in the sense that a chair is a fact; it is a fact in the sense in which it may be said a treaty is a fact; that is, a legal status attaching to a certain state of affairs by virtue of certain international rules or practices”
- In Civilian Law, a State is a “legal” or “juridical” fact with legal consequences



Hawaiian State & Government

- Under international law, the military overthrow of a country's government does not equate to an overthrow of a "State"
- According to Judge Crawford:
 - "There is a presumption that the State continues to exist, with its rights and obligations despite a period in which there is no effective government"
 - "Belligerent occupation does not affect the continuity of the State, even when there exists no government claiming to represent the occupied State"



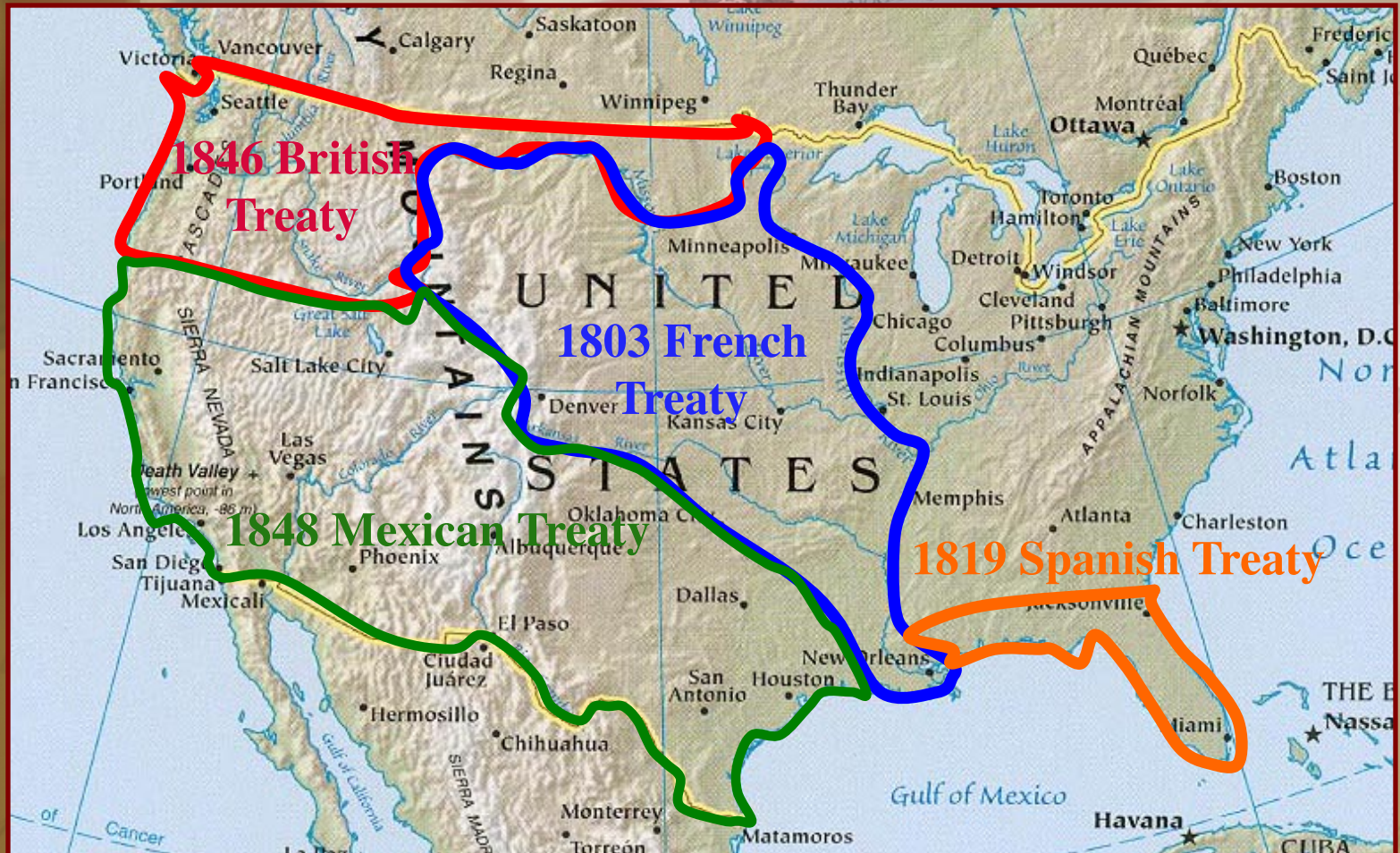
Presumption of State Continuity

- According to Professor Matthew Craven:
 - “Is one were to speak about a presumption of continuity, one would suppose that an obligation would lie upon the party opposing that continuity to establish facts substantiating its rebuttal”
 - “The continuity of the Hawaiian Kingdom, in other words, may be refuted only by reference to a valid demonstration of legal title, or sovereignty, on the part of the United States, absent of which the presumption remains”



• A “valid demonstration of legal title” is a treaty of cession that DOES NOT EXIST

Valid Demonstrations of Legal Title



Presumption of Innocence

- The presumption of State continuity is similar to the presumption of innocence
- A person on trial does not have the burden to prove their innocence
- Rather, the prosecutor has to prove beyond all reasonable doubt that the defendant “is not” innocent
- Without proof of guilt, the person “is” innocent



The *Lorenzo* Principle: *State of Hawai‘i v. Lorenzo*



State of Hawai‘i v. Lorenzo

- In 1994, after the Congress passed a joint resolution apologizing for the United States illegal overthrow, an appeal was heard by the State of Hawai‘i Intermediate Court of Appeals that centered on a claim that the Hawaiian Kingdom continues to exist
- That case is *State of Hawai‘i v. Lorenzo*, whose decision came to be known as the *Lorenzo* principle by the Federal Court in Hawai‘i
- State of Hawai‘i Supreme Court and the Appellate Court applied the *Lorenzo* principle in 53 cases since 1994
- The Federal Court applied the *Lorenzo* principle in 17 cases, 2 of which came before the Ninth Circuit Court of Appeals



State of Hawai‘i v. Lorenzo

- The *Lorenzo* Appellate Court stated:
 - “Lorenzo appeals, arguing that the lower court erred in denying his pretrial motion (Motion) to dismiss the indictment. The essence of the Motion is that the Hawaiian Kingdom was recognized as an independent sovereign nation by the United States in numerous bilateral treaties; the Kingdom was illegally overthrown in 1893 with the assistance of the United States; the Kingdom still exists as a sovereign nation; he is a citizen of the Kingdom; therefore, the courts of the State of Hawai‘i have no jurisdiction over him”



State of Hawai‘i v. Lorenzo

- The Appellate Court placed the burden of proof on Lorenzo as the Defendant
- In 2014, the Supreme Court clarified this burden in *State of Hawai‘i v. Armitage*:
 - “Lorenzo held that, for jurisdictional purposes, should a defendant demonstrate a factual or legal basis that the Hawaiian Kingdom ‘exists as a state,’ and that he or she is a citizen of that sovereign state, a defendant may be able to argue that the courts of the State of Hawai‘i lack jurisdiction over him or her”



State of Hawai‘i v. Lorenzo

- While the *Lorenzo* Appellate Court affirmed the trial court’s judgment, it admitted “the court’s rationale is open to question in light of international law”
- By not applying international law, the Court concluded that the trial court’s decision was correct because Lorenzo “presented no factual (or legal) basis for concluding that the Kingdom continues to exist as a state”
- Since 1994, the *Lorenzo* case became a precedent case in State and Federal decisions



State of Hawai‘i v. Lorenzo

- Clearly the *Lorenzo* Appellate Court admitted that by placing the burden of proof on the Defendant that the Kingdom continues to exist as a State may be wrong in light of international law, which it was
- Because international law provides for the presumption of State continuity despite its government being overthrown, the burden, in the *Lorenzo* case, shifted to the prosecution
- You don't prove the Kingdom "exists," but rather prove that the Kingdom "does not exist"



State of Hawai‘i v. Lorenzo

- The *Lorenzo* principle transformed the international rule of presumption of State continuity into a rule of evidence—a starting point
- The *Lorenzo* Appellate Court also admitted under international law, “the illegal overthrow leaves open the question whether the present governance system should be recognized”
- The presumption is not the existence of the State of Hawai‘i and its courts, but rather the existence of the Hawaiian Kingdom as a State



Right the Wrong: *Restoring the Hawaiian Government*



Effective Control of Hawaiian Territory

- The effective control of Hawaiian territory by the United States and its proxies since January 17, 1893, did not extinguish the legal status of the Hawaiian Kingdom as an independent State
- Judge Crawford states:
 - “Pending a final settlement of the conflict, belligerent occupation does not affect the continuity [of the occupied State]. The governmental authorities may be driven into exile or silenced, and the exercise of the powers of the State thereby affected. But it is settled that the [States] themselves continue to exist”



Restoring the Government

- According to Professor Marek:
 - “It is always the legal order of the State which constitutes the legal basis for the existence of its government, whether such government continues to function in its own country or goes into exile; but never the delegation of the occupying State nor any rule of international law other than the one safeguarding the continuity of an occupied State”
 - “The relation between the legal order of the occupying State is not one of delegation, but of co-existence”

Restoring the Government

- According to Professor Rim:
 - “The State continues to exist even in the factual absence of government so long as the people entitled to reconstruct the government remain”
- On February 28, 1997, Hawaiian subjects exercised their right of internal self-determination and took the necessary steps to restore the Hawaiian Kingdom Government, as a Regency, under the doctrine of necessity and Hawaiian constitutional law
- A Regency serves in the absence of a Monarch

Restoring the Government

- According *Restatement (Third) Foreign Relations Law of the United States*
 - “The duty to treat a qualified entity as a state also implies that so long as the entity continues to meet those qualifications its statehood may not be ‘derecognized’”
 - “Where a new administration succeeds to power in accordance with a state’s constitutional process, no issue of recognition or acceptance arises; continued recognition is assumed”
- The United States cannot “derecognize” the Hawaiian State
- The Council of Regency did not require diplomatic recognition by the United States or any other foreign government because it was the successor to Queen Lili‘uokalani’s administration under Hawaiian law

Council of Regency

- Addressing over a century of occupation, the Hawaiian Council of Regency was formed similar to the formation of governments in exile during the Second World War
- In particular, the Hawaiian Council of Regency was established in similar fashion to the Belgian Council of Regency after King Leopold was captured by the Nazis
- As the Belgian Council of Regency was established under Article 82 of the Belgian Constitution of 1821, the Hawaiian Council of Regency was established under Article 33 of the Hawaiian Constitution of 1864



Genealogy: A Noble Tie

- My maternal great-grandfather is William Kuakini Simerson
- He was a direct descendant of Kings of Hawai‘i—Liloa, Umialiloa, Alapa‘inui and Keaweopala
- He was a High Chief and served as one of the pall bearers for Queen Lili‘uokalani in 1917 and Prince Kuhio in 1922



WILLIAM K. SIMERSON,

Genealogy: A Noble Tie

- My paternal third great-grandmother is High Chiefess, Lucy Pohaiali'i Koi'i
 - Genealogy Chanter for King Kalākaua and Queen Lili'uokalani's Court
 - Accompanied the Queen when the 1892 Legislature was adjourned
 - She would visit Prince Kūhiō at his Waikiki home with my paternal grandfather



Military Service — Field Artillery Officer



Hawai'i Army National Guard (1984-1994)

- Attended Field Artillery Officer's Basic Course in 1987 and Officer's Advance Course in 1990 at Fort Sill, Oklahoma
- Air-Ground Operations School in 1990 at Hurlbert Field, Florida
- Battlefield Exercises:
 - Japan (Yamasakura)
 - Korea (Team Spirit)
 - Fort Lewis, Washington



Hawai'i Army National Guard (1984-1994)

- Battery Fire Direction Officer—
*Charlie Battery, 1st Battalion,
487th Field Artillery*
- Company Fire Support Officer—
100th Battalion, 442nd Infantry
- Battalion Fire Support Officer—
100th Battalion, 442nd Infantry
- Commander—*Charlie Battery,
1st Battalion, 487th Field Artillery*
- Honorably Discharged as a
Captain



Military Professionalism

- Honesty and integrity because lies erode credibility and undermine confidence
- Straightforwardness add frankness to honesty and integrity
- Candor is the forthright offering of unrequested information when something is known to be wrong
- Confidence because no task is daunting
- Respect for the rule of law



Assessing the Situation of Government

Hawaiian Kingdom

Monarch

Legislative Branch

Executive Branch

Judicial Branch



Assessing the Situation of Government

Provisional Government

President

Legislative
Branch

Executive
Branch

Judicial
Branch



Assessing the Situation of Government

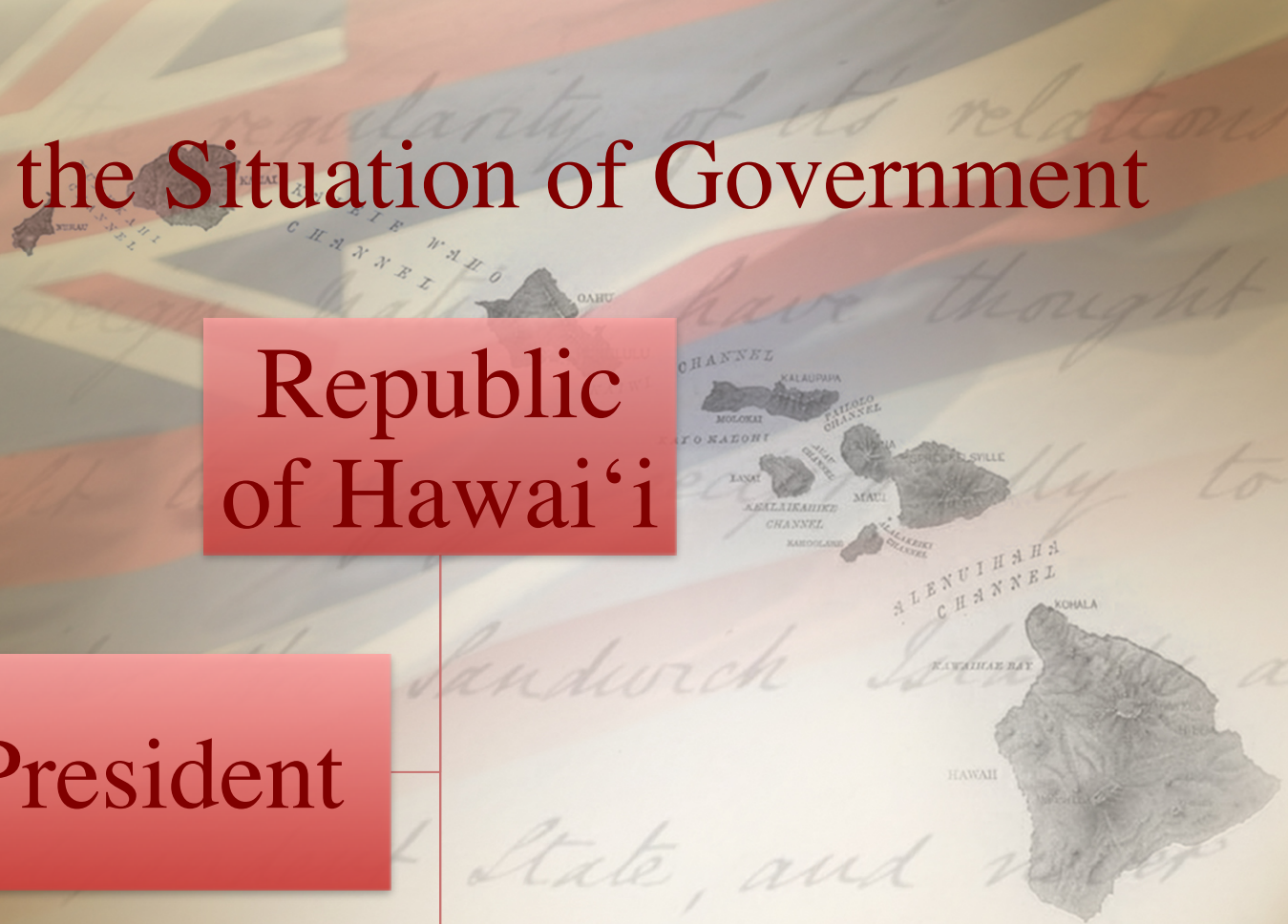
Republic
of Hawai'i

President

Legislative
Branch

Executive
Branch

Judicial
Branch



Assessing the Situation of Government

Territory
of Hawai'i

Governor

Legislative
Branch

Executive
Branch

Judicial
Branch



Assessing the Situation of Government

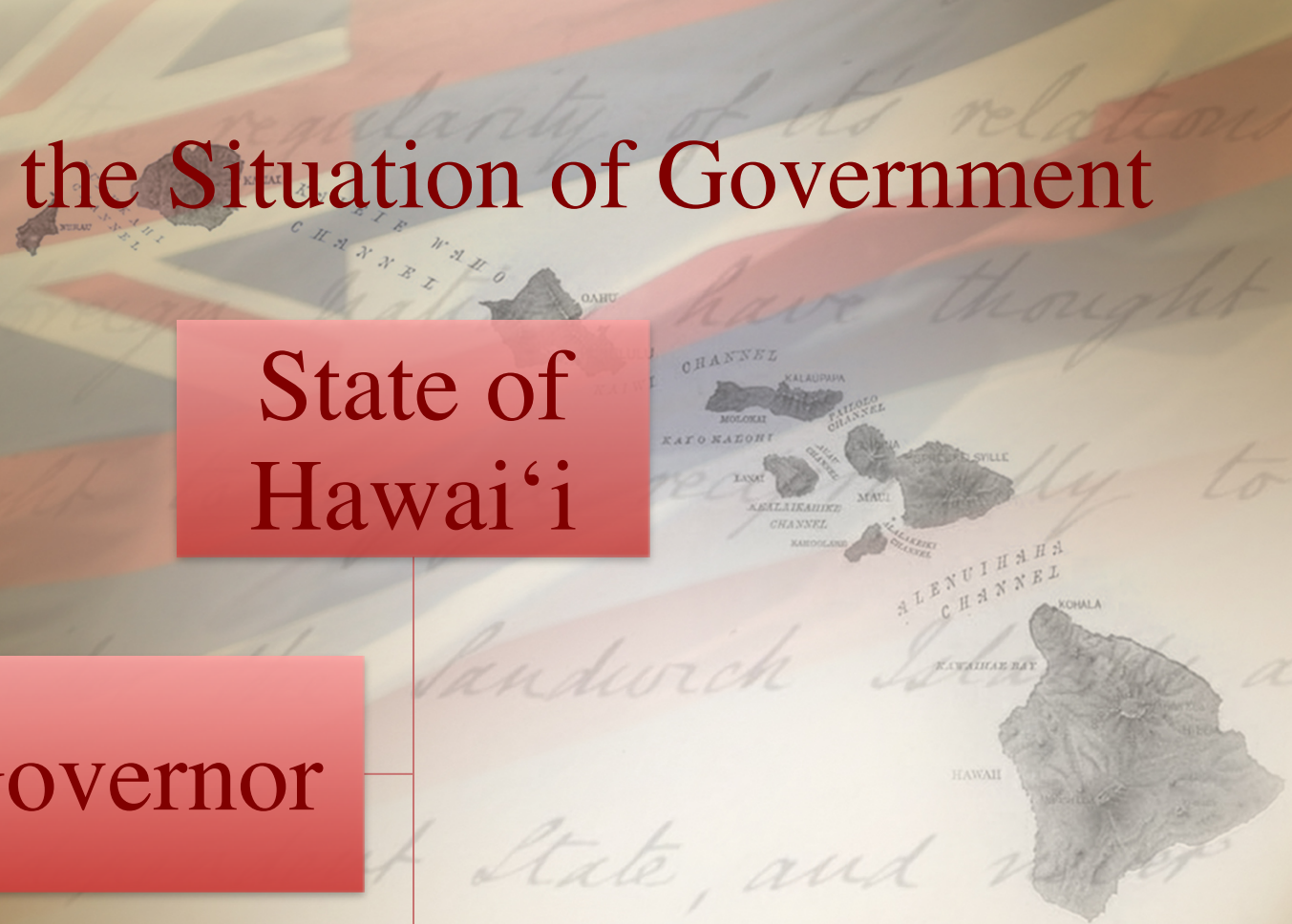
State of
Hawai'i

Governor

Legislative
Branch

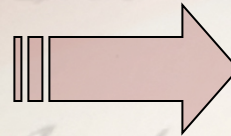
Executive
Branch

Judicial
Branch



Restoring the Hawaiian Government

State Sovereignty
Hawai'i (1843)



Council of
Regency
(1997)



Strategic Plan

- The Strategic Plan of the Council entails three Phases:
 - *Phase I*: Verification of the Hawaiian Kingdom as an Independent State and subject of international law
 - *Phase II*: Exposure of Hawaiian Statehood within the framework of international law and the laws of occupation as it affects the realm of politics and economics at both the international and domestic levels
 - Phase II will focus on the truth and accountability
 - *Phase III*: Restoration of the Hawaiian Kingdom as an independent State and a subject of international law
 - Phase III is when the occupation ends



Lawfare

- According to General Dunlap, *lawfare*, as distinguished from *warfare*, is “the strategy of using law as a substitute for traditional military means to achieve an operational objective”
- The Council of Regency seeks specific objectives to ensure compliance with the law of occupation under the Hague and Geneva Conventions
- The Council of Regency will implement its strategic plan through *lawfare*





Phase I Completed:

Permanent Court of Arbitration Verifies Hawaiian Kingdom Continues to Exist as a State



Permanent Court of Arbitration

- The Permanent Court of Arbitration (PCA) is an intergovernmental organization that creates ad hoc Arbitral Tribunals
- The PCA has institutional jurisdiction for the following disputes:
 - Between two “States”
 - Between a “State” and an “international organization”
 - Between a “State” and a “private party”



Permanent Court of Arbitration

- The Permanent Court of Arbitration (PCA) is



Permanent Court of Arbitration

PCA Case Repository

The Republic of Ecuador v. The United States of America

Case name The Republic of Ecuador v. The United States of America

Case description On June 28, 2011, the Republic of Ecuador instituted arbitral proceedings concerning the interpretation and application of Article II(7) of the Treaty between the United States of America and the Republic of Ecuador Concerning the Encouragement and Reciprocal Protection of Investment, 27 August 1993 (US-Ecuador BIT), pursuant to Article VII of the US-Ecuador BIT. The Permanent Court of Arbitration acted as Registry in this arbitration.

Name(s) of claimant(s) The Republic of Ecuador (State)

Name(s) of respondent(s) The United States of America (State)



Permanent Court of Arbitration

- The Permanent Court of Arbitration (PCA) is



Permanent Court of Arbitration

PCA Case Repository

District Municipality of La Punta (Peru) v. United Nations Office for Project Services (UNOPS)

Case name District Municipality of La Punta (Peru) v. United Nations Office for Project Services (UNOPS)

Case description The PCA provided administrative support in this arbitration, which was conducted under the UNCITRAL Arbitration Rules (1976).

Name(s) of claimant(s) District Municipality of La Punta (Peru) (State)

Name(s) of respondent(s) United Nations Office for Project Services (UNOPS) (International organization)



Permanent Court of Arbitration

- The Permanent Court of Arbitration (PCA) is



Permanent Court of Arbitration

PCA Case Repository

Ilya Levitis (United States) v. The Kyrgyz Republic

Case name Ilya Levitis (United States) v. The Kyrgyz Republic

Case description The PCA acted as registry in this arbitration, which was conducted under the UNCITRAL Arbitration Rules 1976 pursuant to the Treaty between the United States of America and the Republic of Kyrgyzstan concerning the Encouragement and Reciprocal Protection of Investment, signed on January 19, 1993, and the Law of the Kyrgyz Republic on Investments in the Kyrgyz Republic.

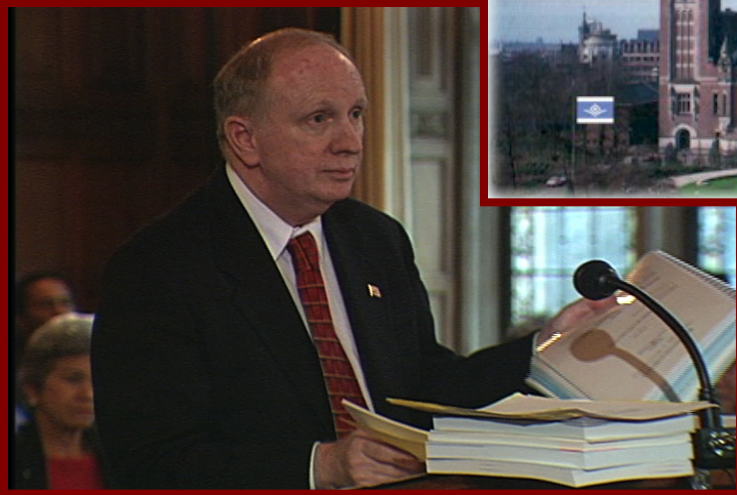
Name(s) of claimant(s) Ilya Levitis (United States) (Private entity)

Name(s) of respondent(s) The Kyrgyz Republic (State)



Larsen v. Hawaiian Kingdom

Permanent Court of Arbitration (1999-2001)



Larsen v. Hawaiian Kingdom

Permanent Court of Arbitration (1999-2001)



Permanent Court of Arbitration
PCA Case Repository

Larsen/Hawaiian Kingdom

Case name Larsen/Hawaiian Kingdom

Case description Dispute between Lance Paul Larsen (Claimant) and The Hawaiian Kingdom (Respondent) whereby

- a) Lance Paul Larsen, a Hawaiian subject, alleges that the Government of the Hawaiian Kingdom is in continual violation of its 1849 Treaty of Friendship, Commerce and Navigation with the United States of America, and in violation of the principles of international law laid [down] in the Vienna Convention on the Law of Treaties, 1969, by allowing the unlawful imposition of American municipal laws over claimant's person within the territorial jurisdiction of the Hawaiian Kingdom.
- b) Lance Paul Larsen, a Hawaiian subject, alleges that the Government of the Hawaiian Kingdom is also in continual violation of the principles of international comity by allowing the unlawful imposition of American municipal laws over the claimant's person within the territorial jurisdiction of the Hawaiian Kingdom.

Name(s) of claimant(s) Lance Paul Larsen (Private entity)

Name(s) of respondent(s) The Hawaiian Kingdom (State)

Completed

Proceedings were initiated on November 8,
the filing of a notice of arbitration
the arbitral tribunal was formed on June 9,
the Secretary General of the Permanent Court
of International Justice informed the Council of Regency that
it acknowledged the continuity of the Hawaiian
Government as an Independent State

- The Secretary General also acknowledged the Council of Regency as the Government of the Hawaiian Kingdom



Explicit Recognition of the Continuity of the Hawaiian Kingdom as a State

- Under Article 49 of the 1907 PCA Convention, the PCA's Administrative Council “publishes an annual report on the work of the Court, the functioning of its administration services, and on its expenditure”
- In its annual reports from 2000 through 2011, the Administrative Council stated that the *Larsen v. Hawaiian Kingdom* arbitral tribunal was established “Pursuant to Article 47 of the 1907 Convention”
- Those Contracting States with the Hawaiian Kingdom in its treaties, to include the United States, are members of the Administrative Council and co-publishers of the annual reports that acknowledge the continuity of the Hawaiian Kingdom as a State



Explicit Recognition of the Continuity of the

33.	Larsen - Hawaiian Kingdom ²	Treaty interpretation	30 - 10 - 1999	05 - 02 - 2001	Crawford ³ Greenwood ³ Griffith ³
34.	The Netherlands - France ²	Treaty interpretation	21 - 10 - / 17 - 12 - 1999	12 - 03 - 2004	Skubiszewski Guillaume Kooijmans ³
35.	European corporation - African government	Contract dispute	04 - 08 - 2000	18 - 02 - 2003 Settled by agreement of parties	-
36.	Eritrea-Ethiopia Boundary Commission ²	Boundary dispute	12 - 12 - 2000	13 - 04 - 2002	Lauterpacht Ajibola Reisman ³ Schwebel ³ Watts

1. The names of the presidents are typeset in bold.
2. Pursuant to article 47 of the 1907 Convention (article 26 of the 1899 Convention).
3. Not a Member of the Permanent Court of Arbitration.
4. The proceedings of this case were conducted in writing exclusively.
5. In this case the summary procedure provided for in Chapter IV of the 1907 Convention was applied.



reports that acknowledge the continuity of the Hawaiian Kingdom as a State

Explicit Recognition of the Continuity of the

33.	Larsen - Hawaiian Kingdom ²	Treaty interpretation	30 - 10 - 1999	05 - 02 - 2001	Crawford ³ Greenwood ³ Griffith ³
34.	The Netherlands - France ²	Treaty interpretation	21 - 10 - / 17 - 12 - 1999	12 - 03 - 2004	Skubiszewski Guillaume Kooijmans ³

Article 47

The Bureau is authorized to place its offices and staff at the disposal of the Contracting Powers for the use of any special Board of Arbitration.

The jurisdiction of the Permanent Court may, within the conditions laid down in the regulations, be extended to disputes between non-Contracting Powers or between Contracting Powers and non-Contracting Powers, if the parties are agreed on recourse to this Tribunal.

1. The names of the presidents are typeset in bold.
2. Pursuant to article 47 of the 1907 Convention (article 26 of the 1899 Convention).
3. Not a Member of the Permanent Court of Arbitration.
4. The proceedings of this case were conducted in writing exclusively.
5. In this case the summary procedure provided for in Chapter IV of the 1907 Convention was applied.



reports that acknowledge the continuity of the Hawaiian Kingdom as a State

Phase II Initiated:

Exposure of the Hawaiian Kingdom as a “State”



Larsen v. Hawaiian Kingdom

Permanent Court of Arbitration, The Hague (1999-2001)

(video)

American Journal of International Law

- “At the center of the PCA proceedings was that the Hawaiian Kingdom continues to exist and that the Hawaiian Council of Regency (representing the Hawaiian Kingdom) is legally responsible under international law for the protection of Hawaiian subjects, including the claimant”
- “In other words, the Hawaiian Kingdom was legally obligated to protect Larsen from the United States’ unlawful imposition over him of its municipal laws through its political subdivision, the State of Hawaii”
- “As a result of this responsibility, Larsen submitted, the Hawaiian Council of Regency should be liable for any international law violations that the United States had committed against him”



Permanent Court of Arbitration Website

COUR PERMANENTE D'ARBITRAGE



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The Permanent Court of Arbitration, established by treaty in 1899, is an intergovernmental organization providing a variety of dispute resolution services to the international community.

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Permanent Court of Arbitration Website

Larsen v. Hawaiian Kingdom

Lance Paul Larsen, a resident of Hawaii, brought a claim against the Hawaiian Kingdom by its Council of Regency (“Hawaiian Kingdom”) on the grounds that the Government of the Hawaiian Kingdom is in continual violation of: (a) its 1849 Treaty of Friendship, Commerce and Navigation with the United States of America, as well as the principles of international law laid down in the Vienna Convention on the Law of Treaties, 1969 and (b) the principles of international comity, for allowing the unlawful imposition of American municipal laws over the claimant’s person within the territorial jurisdiction of the Hawaiian Kingdom.



Permanent Court of Arbitration Website

Larsen v. Hawaiian Kingdom

Case information

NAME(S) OF CLAIMANT(S)	Lance Paul Larsen (Private entity)
NAME(S) OF RESPONDENT(S)	The Hawaiian Kingdom (State)
NAMES OF PARTIES	-
CASE NUMBER	1999-01
ADMINISTERING INSTITUTION	Permanent Court of Arbitration (PCA)

Kingdom.



Larsen v. Hawaiian Kingdom

Meeting with Rwandan Ambassador in Brussels, Belgium

- On December 12, 2000, a meeting was called by the Rwandan Ambassador Bihozagara in the city of Brussels, Belgium
- Rwanda offered to the Council of Regency to report to the United Nations General Assembly the prolonged occupation of Hawai‘i
- Council could not accept the offer because it needed to address denationalization first



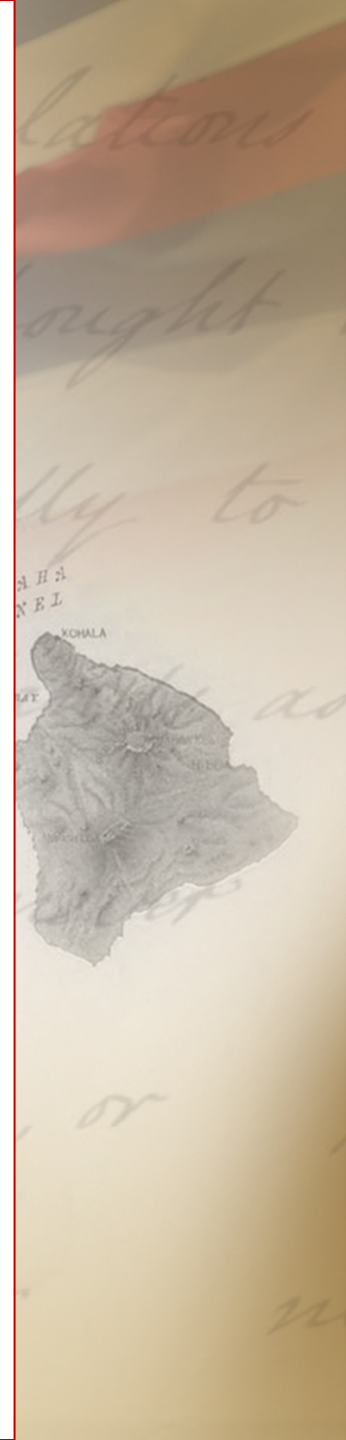
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DEPARTMENT OF THE ARMY FIELD MANUAL

REMEDIES FOR VIOLATION OF INTERNATIONAL LAW; WAR CRIMES

Section I. REMEDIES AND REPRISALS

495. Remedies of Injured Belligerent

In the event of violation of the law of war, the injured party may legally resort to remedial action of the following types:

- a.* Publication of the facts, with a view to influencing public opinion against the offending belligerent.



Addressing *Denationalization* through Academic Research



Academic Publications



Academic Publications

A Slippery Path towards Hawaiian Indigeneity:

An Analysis and Comparison between
Hawaiian State Sovereignty and
Hawaiian Indigeneity and its use and
practice in Hawai'i today

BY DAVID KEANU SAI*



**THE AMERICAN OCCUPATION OF THE HAWAIIAN KINGDOM:
BEGINNING THE TRANSITION FROM OCCUPIED TO RESTORED STATE**

A DISSERTATION SUBMITTED TO THE GRADUATE DIVISION OF THE
UNIVERSITY OF HAWAII IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF

DOCTOR OF PHILOSOPHY

IN

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DECEMBER 2008

By
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'Ōiwi Agency and European Imperialism in the Hawaiian Kingdom

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FOR THE DEGREE OF

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IN
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AND NATION IN HAWAI'I, 1880–1900

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OF THE REQUIREMENTS FOR THE DEGREE OF

MASTER OF ARTS

IN

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MAY 2010

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Donovan C. Preza

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THE

RESULTING FROM THE MĀHELE OF 1848

ND A

**The *Hawaiian Kingdom Arbitration Case* and the
Unsettled Question of the Hawaiian Kingdom's Claim
to Continuity as an Independent State under
International Law**

Patrick Dumberry*

MAY 2010

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THE

RESULTING FROM THE MĀHELE OF 1848

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THE

RESULTING FROM THE MĀHELE OF 1848

ND A

**AMERICAN OCCUPATION OF THE HAWAIIAN STATE:
A CENTURY UNCHECKED**

DAVID KEANU SAI*

- I. INTRODUCTION
- II. THE HISTORY OF THE HAWAIIAN STATE AND THE PROLONGED AMERICAN OCCUPATION
 - A. Recognition of Hawai`i as an Independent State*
 - B. United States violation of Hawaiian State sovereignty*
 - C. United States' violation of Hawaiian Neutrality*
 - D. Explosion of U.S. National Population during Occupation*
 - E. United States' violation of the Law of Occupation to Date*

By
Donovan C. Preza

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THE EMPIRICAL WRITES BACK: RE-EXAMINING HAWAIIAN DISPOSSESSION

THE

RESULTING FROM THE MĀHELE OF 1848

ND A

AMERICAN OCCUPATION OF THE HAWAIIAN STATE*

HAWAI`I, HISTORY AND INTERNATIONAL LAW

Matthew Craven, Ph.D.*

I. INTRODUCTION

II. POLITICS V. CULTURE

III. THE PROBLEMS OF HISTORY

IV. HAWAIIAN STATEHOOD AND ITS IMPLICATIONS

V. SOVEREIGNTY AND ANNEXATION

VI. THE ANNEXATION OF HAWAI`I AND THE ISSUE OF PROCESS

VII. CONCLUSION

E. United States' violation of the Law of Occupation to Date

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AMERICAN OCCUPATION OF THE HAWAIIAN STATE*

AN INTERDISCIPLINARY STUDY OF THE TERM “HAWAIIAN”

Kanalu Young, Ph.D.*

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- II. ABORIGINAL AND OTHER SELECTED ADJECTIVES
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THE

RESULTING FROM THE MĀHELE OF 1848

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**KU`E AND KU`OKO`A (RESISTANCE AND INDEPENDENCE):
HISTORY, LAW, AND OTHER FAITHS[†]**

Jonathan Kamakawiwo`ole Osorio, Ph.D.*

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- IX. LAW, HISTORY, AND OTHER FAITHS

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HISTORY, LAW, AND OTHER FAITHS[†]

TEACHING LAND AND SOVEREIGNTY - A REVISED VIEW

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- I. INTRODUCTION
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- VIII. SOME INITIAL CONCLUSIONS
- IX. LAW, HISTORY, AND OTHER FAITHS

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THE EMPIRICAL WRITES BACK: RE-EXAMINING HAWAIIAN DISPOSSESSION

RESULTING FROM THE MĀHELE OF 1848

KU`E AND KU`OKO`A (RESISTANCE AND INDEPENDENCE):

History, Law, and Other Faiths

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第4章

This is not America: The Acting Government of
the Hawaiian Kingdom Goes Global with Legal
Challenges to End Occupation

Dennis Riches

IX. LAW, HISTORY, AND OTHER FAITHS

By
Donovan C. Preza

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Sovereignty Endures:

An Overview of the Political and Legal History
of the Hawaiian Islands

David Keanu Sai, Ph.D.

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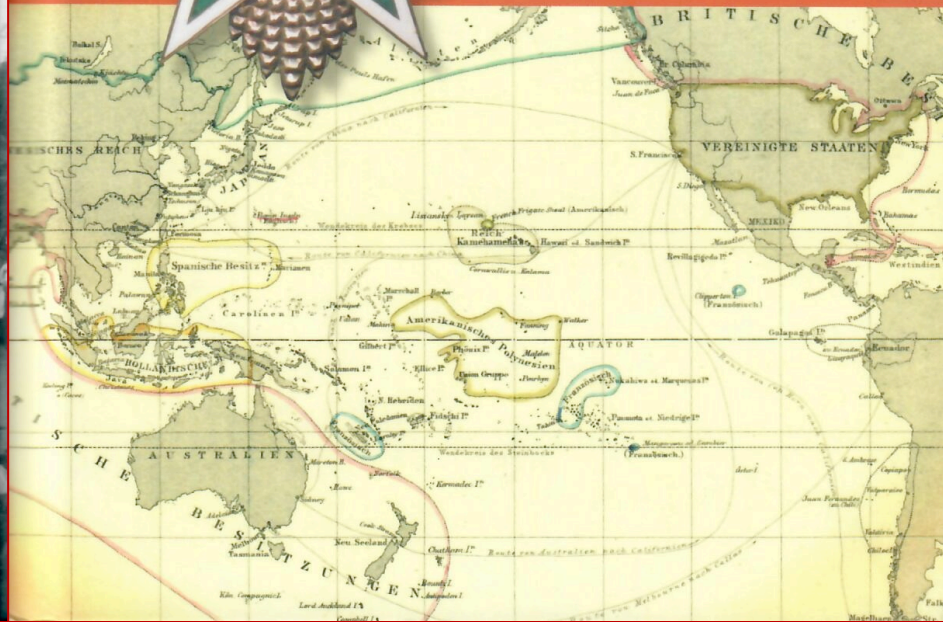
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A POWER IN THE WORLD

THE HAWAIIAN KINGDOM
IN OCEANIA

LORENZ GONSCHOR

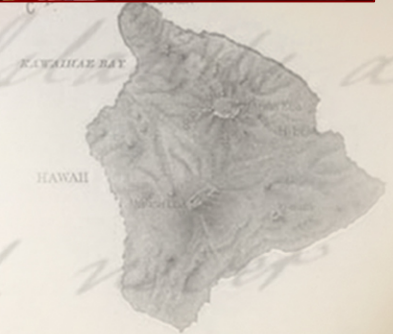




Hawaii State Teachers Association added 4 new photos.

Jul 4 at 7:00am • 🌐

Today, the National Education Association's Representative Assembly, meeting in Boston, approved New Business Item 37, "The NEA will publish an article that documents the illegal overthrow of the Hawaiian Monarchy in 1893, the prolonged illegal occupation of the United States in the Hawaiian Kingdom and the harmful effects that this occupation has had on the Hawaiian people and resources of the land." Mahalo to Chris Santomauro, a teacher at Kaneohe Elementary, who introduced the proposal and Uluhuni Waialeale, a teacher at Kualapuu charter school on Moloka'i, whose impassioned and articulate argument in favor of the Hawaiian overthrow measure swayed a majority of teachers from across the country to support it.



OCTOBER 1, 2018 • 1:23PM

t e + f 1.4K 1

The U.S. Occupation of the Hawaiian Kingdom

BY KEANU SAI PH.D.



APRIL 2, 2018 • 11:28AM

t e + f 3.9K 1

The Illegal Overthrow of the Hawaiian Kingdom Government

BY KEANU SAI PH.D.

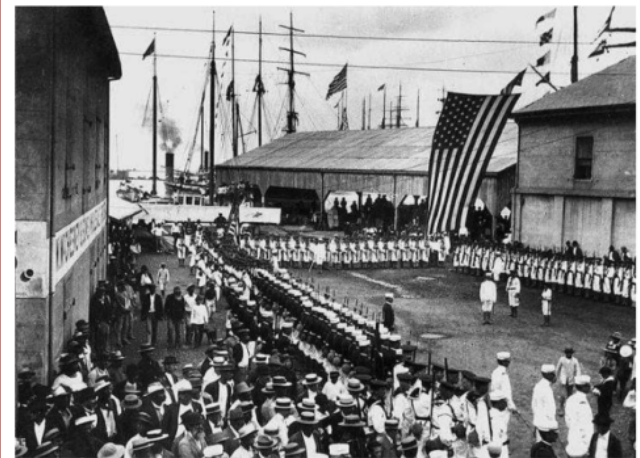


OCTOBER 13, 2018 • 2:36PM

t e + f 1

The Impact of the U.S. Occupation on the Hawaiian People

BY KEANU SAI PH.D.



United Nations Human Rights Expert



**UNITED NATIONS
HUMAN RIGHTS**
OFFICE OF THE HIGH COMMISSIONER

Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland

MEMORANDUM

Date: 25 February 2018

From: Dr. Alfred M. deZayas
United Nations Independent Expert
Office of the High Commissioner for Human Rights

To: Honorable Gary W. B. Chang, and
Honorable Jeannette H. Castagnetti, and
Members of the Judiciary for the State of Hawaii

Re: The case of Mme Routh Bolomet



United Nations Human Rights Expert



As a professor of international law, the former Secretary of the UN Human Rights Committee, co-author of book, *The United Nations Human Rights Committee Case Law 1977-2008*, and currently serving as the UN Independent Expert on the promotion of a democratic and equitable international order, I have come to understand that the lawful political status of the Hawaiian Islands is that of a sovereign nation-state in continuity; but a nation-state that is under a strange form of occupation by the United States resulting from an illegal military occupation and a fraudulent annexation. As such, international laws (the Hague and Geneva Conventions) require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the laws of the occupied state (in this case, the Hawaiian Kingdom), not the domestic laws of the occupier (the United States).

To: Honorable Gary W. B. Chang, and
Honorable Jeannette H. Castagnetti, and
Members of the Judiciary for the State of Hawaii

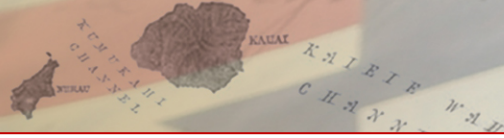
Re: The case of Mme Routh Bolomet



War Crimes Committed in Hawai'i

- Denationalization
- Pillaging
- Unlawful appropriation of property
- Depriving a protect person of a fair and regular trial
- Destruction of property
- Unlawful confinement of a protected person
- Removing protected persons from the country
- Involuntary conscription into the U.S armed forces





national lawyers guild

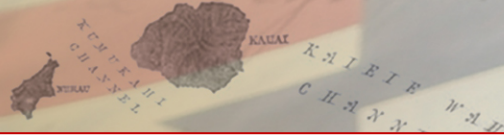
"An organization of lawyers, law students, legal workers, and jailhouse lawyers... in the service of the people, to the end that human rights shall be regarded as more sacred than property interests." Preamble to the NLG Constitution

November 10, 2020

Dear Governor Ige, State of Hawai'i;

The National Lawyers Guild (NLG), the oldest and largest progressive bar association in the United States, with 70 chapters and more than 6,000 members, calls upon the State of Hawai'i and its County governments, as the proxy of the United States, which is in effective control of Hawaiian territory, to immediately comply with international humanitarian law while the United States continues its prolonged and illegal occupation of the Hawaiian Kingdom since 1893.





national lawyers guild

"An organization of lawyers, law students, legal workers, and jailhouse lawyers... in the service of the people, to the end

Dr. Federico Lenzerini, a professor of international law from the University of Siena, Italy, authored a legal opinion affirming the lawful authority of the Council of Regency under international humanitarian law, and, thereby, the RCI's investigative authority. [9] The NLG supports the actions taken by the Council of Regency and the RCI in its efforts to ensure compliance with the international laws of occupation by the United States and the State of Hawai'i and its Counties.

United States, with 70 chapters and more than 6,000 members, calls upon the State of Hawai'i and its County governments, as the proxy of the United States, which is in effective control of Hawaiian territory, to immediately comply with international humanitarian law while the United States continues its prolonged and illegal occupation of the Hawaiian Kingdom since 1893.



As an organization committed to the mission that human rights and the rights of ecosystems are more sacred than property interests, the NLG is deeply concerned that international humanitarian law continues to be flagrantly violated with apparent impunity by the State of Hawai‘i and its County governments. This has led to the commission of war crimes and human rights violations of a colossal scale throughout the Hawaiian Islands. International criminal law recognizes that the civilian inhabitants of the Hawaiian Islands are “protected persons” who are afforded protection under international humanitarian law and their rights are vested in international treaties. There are no statutes of limitation for war crimes, as you must be aware.

We urge you, Governor Ige, to proclaim the transformation of the State of Hawai‘i and its Counties into an occupying government pursuant to the Council of Regency’s proclamation of June 3, 2019, in order to administer the laws of the Hawaiian Kingdom. [10] This would include carrying into effect the Council of Regency’s proclamation of October 10, 2014 that bring the laws of the Hawaiian Kingdom in the nineteenth century up to date. [11] We further urge you and other officials of the State of Hawai‘i and its Counties to familiarize yourselves with the contents of the recent eBook published by the RCI and its reports that comprehensively explains the current situation of the Hawaiian Islands and the impact that international humanitarian law and human rights law have on the State of Hawai‘i and its inhabitants. [12]

Best Regards,

National Lawyers Guild





IADL

INTERNATIONAL ASSOCIATION
OF DEMOCRATIC LAWYERS

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IADL

ASSOCIATION INTERNATIONALE DES JURISTES DÉMOCRATES • ASOCIACIÓN INTERNACIONAL DE JURISTAS DEMÓCRATAS • МЕЖДУНАРОДНОЙ АССОЦИАЦИИ ЮРИСТОВ-ДЕМОКРАТОВ • 国际民主律师协会 • الرابطة الدولية للمحاميين الديمقراطيين



INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS

CHAUSÉE DE HAECHT 55, 1210, BRUXELLES-BRUSSELS, BELGIQUE-BELGIUM

info@iadllaw.org www.iadllaw.org

IADL RESOLUTION CALLING UPON THE UNITED STATES TO IMMEDIATELY COMPLY WITH INTERNATIONAL HUMANITARIAN LAW IN ITS PROLONGED OCCUPATION OF THE HAWAIIAN ISLANDS—THE HAWAIIAN KINGDOM

The International Association of Democratic Lawyers (IADL) is a non-governmental organization of human rights lawyers founded in 1946, with member associations throughout the world and with consultative status in ECOSOC. IADL is dedicated to upholding international law and promoting the tenets of the UN Charter in furtherance of peace and justice.

The IADL strongly condemns the January 1893 invasion of the Hawaiian Kingdom by the United States and its subsequent unlawful and prolonged occupation to date, a clear violation of customary international law at the time, which is currently set out in Article 2(4) of the Charter of the United Nations prohibiting the use of force. The IADL has always been a proponent of the rule of law and a State's obligation to comply with international humanitarian law, which includes the law of occupation.

ASSOCIATION INTERNATIONALE DES JURISTES DÉMOCRATES • ASOCIACIÓN INTERNACIONAL DE JURISTAS DEMÓCRATAS • МЕЖДУНАРОДНОЙ АССОЦИАЦИИ ЮРИСТОВ-ДЕМОКРАТОВ • 国际民主律师协会 • الرابطة الدولية للمحامين الديمقراطيين



INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS

CHAUSÉE DE HAECHT 55, 1210, BRUXELLES-BRUSSELS, BELGIQUE-BELGIUM

info@iadllaw.org www.iadllaw.org

The IADL fully supports the NLG's November 10, 2020 letter to State of Hawai'i Governor David Ige urging him to "proclaim the transformation of the State of Hawai'i and its Counties into an occupying government pursuant to the Council of Regency's proclamation of June 3, 2019, in order to administer the laws of the Hawaiian Kingdom. This would include carrying into effect the Council of Regency's proclamation of October 10, 2014 that bring the laws of the Hawaiian Kingdom in the nineteenth century up to date." [15]

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ASSOCIATION OF HAWAIIAN EVANGELICAL CHURCHES

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[DOCUMENTS](#)

[GS RESOLUTION](#)



Aloha ke Akua!

ASSOCIATION OF HAWAIIAN EVANGELICAL



Association of Hawaiian Evangelical Churches

Hawai'i Conference United Church of Christ

1848 Nu'uana Avenue

Honolulu, Hawai'i 96817

Phone 808-537-9516

Dear Governor David Ige,

On July 18, 2021, the governing body of the United Church of Christ (UCC) voted and passed "A Resolution Encouraging to End 128 Years of War Between the United States of America and the Hawaiian Kingdom." The resolution was introduced by the UCC's Association of Hawaiian Evangelical Churches (AHEC) that are comprised of 31 Native Hawaiian congregations across the islands. 80 percent of these congregations were established prior to the illegal overthrow of the Government of the Hawaiian Kingdom on January 17, 1893. What was unlawfully overthrown was the government of the Hawaiian Kingdom, but not the country, the Hawaiian Kingdom. Under international law the Hawaiian Kingdom as a State, continues to exist under the laws of war as an occupied State. The resolution:



Aloha ke Akua!

ASSOCIATION OF HAWAIIAN EVANGELICAL

Therefore, in accordance with the UCC resolution whereby AHEC will provide “communications to local, national and international leaders and organizations calling for compliance with international humanitarian law and an end to the illegal occupation of the Hawaiian Islands,” we support the National Lawyers Guild’s letter to you dated November 10, 2020, urging you, as Governor,

[T]o proclaim the transformation of the State of Hawai‘i and its Counties into an occupying government pursuant to the Council of Regency’s proclamation of June 3, 2019, in order to administer the laws of the Hawaiian Kingdom. This would include carrying into effect the Council of Regency’s proclamation of October 10, 2014 that bring the laws of the Hawaiian Kingdom in the nineteenth century up to date. We further urge you and other officials of the State of Hawai‘i and its Counties to familiarize yourselves with the contents of the recent eBook published by the [Royal Commission of Inquiry] and its reports that comprehensively explains the current situation of the Hawaiian Islands and the impact that international humanitarian law and human rights law have on the State of Hawai‘i and its inhabitants.⁶

Hawaiian Kingdom v. Biden

- On August 11, 2021, the Hawaiian Kingdom, by its Council of Regency, filed an amended complaint for the federal court to order the State of Hawai‘i to comply with international law and transform itself into an occupying power to administer the laws of the Hawaiian Kingdom



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Honolulu, HI 96805-2194
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Email: attorneygeneral@hawaiiankingdom.org

Attorney for Plaintiff, Hawaiian Kingdom

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAI'I

HAWAIIAN KINGDOM,

Plaintiff,

v.

JOSEPH ROBINETTE BIDEN JR., in his
official capacity as President of the United
States; KAMALA HARRIS, in her official
capacity as Vice-President and President of
the United States Senate; ADMIRAL JOHN
AQUILINO, in his official capacity as
Commander, U.S. Indo-Pacific Command;
CHARLES P. RETTIG, in his official
capacity as Commissioner of the Internal

Civil No. 1:21-cv-00243-LEK-RT

AMENDED COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF;
EXHIBITS 1 & 2



Amicus Brief on Article II Courts

- On October 6, 2021, an *amicus* brief was filed by the *International Association of Democratic Lawyers*, the *National Lawyers Guild* and the *Water Protectors Legal Collective*
- The *amicus* opened with:
 - The purpose of this brief is to bring to the Court’s attention customary international law norms and judicial precedent regarding Article II occupation courts that bear on the long standing belligerent occupation of the Hawaiian Kingdom by the United States at issue in this case
 - In assessing the legality of the US occupation of Hawai‘i, the Court should be cognizant of customary international law and international human rights treaties that are incorporated into domestic law by virtue of Article IV, section 2 of the Constitution (the “Supremacy Clause”). International law, which



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No. 1:21-cv-00243-LEK-RT

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

HAWAIIAN KINGDOM,
Plaintiff,

v.

JOSEPH R. BIDEN, President of the United States, et al.,
Defendants.

BRIEF OF *AMICI CURIAE*
INTERNATIONAL ASSOCIATION OF DEMOCRATIC LAWYERS,
NATIONAL LAWYERS GUILD, AND
WATER PROTECTOR LEGAL COLLECTIVE
IN SUPPORT OF PLAINTIFF'S AMENDED COMPLAINT

WATER PROTECTOR LEGAL COLLECTIVE
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* Admitted *Pro Hac Vice*

Counsel for Amici Curiae



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Amicus Brief on Article II Courts

- includes treaties ratified by the United States as well as customary international law, is part of U.S. law and must be faithfully executed by the President and enforced by U.S. courts except when clearly inconsistent with the U.S. Constitution or subsequent acts of Congress
- The question here is not whether the Hawaiian Kingdom has standing in an Article III court. The question is whether this court can sit as an Article II occupation court and whether the claims of the Hawaiian Kingdom can be redressed. The answer to both questions is yes



IADL-AAJ Letter to UN Members

- On February 16, 2022, the International Association of Democratic Lawyers (IADL) and the American Association of Jurists (AAJ) sent a joint letter to all members of the United Nations General Assembly in New York City and Geneva drawing attention to the American occupation





Dear Ambassador,

The International Association of Democratic Lawyers (IADL) and the American Association of Jurists—Asociación Americana de Juristas (AAJ) would like to bring to your attention the prolonged and illegal belligerent occupation of the Hawaiian Kingdom by the United States of America since 17 January 1893. Both the IADL and the AAJ, as non-governmental organizations, have special consultative status with the United Nations Economic and Social Council and are accredited to participate in the Human Rights Council's sessions as Observers.

The IADL and the AAJ strongly condemns the January 1893 invasion of the Hawaiian Kingdom by the United States and its subsequent unlawful and prolonged occupation to date, a clear violation of customary international law at the time, which is currently set out in Article 2(4) of the Charter of the United Nations prohibiting the use of force. The IADL and the AAJ have always been a proponent of the rule of law and a State's obligation to comply with international humanitarian law, which includes the law of occupation.

In 2001, the Permanent Court of Arbitration, in *Larsen v. Hawaiian Kingdom*, stated “in the nineteenth century the Hawaiian Kingdom existed as an independent State recognized as such by the United States of America, the United Kingdom and various other States, including by exchanges of diplomatic or consular representatives and the conclusion of treaties.”¹ The Hawaiian Kingdom currently has treaties with Austria, Belgium, Bremen, Denmark, France, Germany, Great Britain, Hamburg, Hungary, Italy, Japan, Luxembourg, Netherlands, Norway,



IADL-AAJ Oral Statement to the UN

- On February 26, 2022, the IADL and the AAJ registered with the United Nations Human Rights Council to deliver an oral statement on the human rights violations that are currently taking place as a result of the American occupation
- Along with the registration the IADL uploaded copies of the Royal Commission of Inquiry book, the NLG resolution and letter to Governor Ige, the IADL resolution, the IADL-AAJ joint letter, and the PCA case description of *Larsen v. Hawaiian Kingdom*

• Both the IADL and the AAJ asked that I deliver the oral statement scheduled for March 22, 2022



Office of the United Nations High Commissioner for Human Rights - Accreditation System

English

Dear David Keanu Sai,

Your registration for the meeting

Human Rights Council - 49th session

has been **approved**. We are looking forward to welcoming you at the meeting.

If you wish to access your registration form, please click [HERE](#).

To make your access to the Palais des Nations easier, please make sure you bring your **national passport** and the following **QR code**:

.

Thank you and best regards,

The Client Secretariat.



U.N. Human Rights Council—March 22, 2022

(video)



Hawaiian Kingdom v. Biden

- Judge Kobayashi issued four Orders that violated international law and the *Lorenzo* principle
- On August 24, 2022, the Hawaiian Kingdom filed a Motion for Judge Kobayashi to reconsider her Order and to schedule an evidentiary hearing to compel the Federal Defendants to show evidence that the Hawaiian Kingdom was extinguished as a State according to the *Lorenzo* principle
- If the Federal Defendants are so confident that the Hawaiian Kingdom does not continue to exist, they shouldn't hesitate to show the evidence



Hawaiian Kingdom v. Biden

- As Sir Walter Scott wrote in 1808:
 - *“Oh, what a tangled web we weave when first we practice to deceive”*
- This quote means that when you act dishonestly you are initiating problems, where a domino structure of complications will eventually run out of control
- The Council of Regency’s responsibility and duty is to not let things “run out of control”



Closing Statements

- The Hawaiian Kingdom's existence is a “legal question” and not a “political question”
- That “legal question” is answered by applying international law to facts that provides for the presumption of a State's continued existence despite its government being militarily overthrown
- In other words, the “legal question” was already answered by the Permanent Court of Arbitration in 1999 when it acknowledged that the Hawaiian Kingdom continues to exist as a State
- For people, it is all about education
- For the United States and the State of Hawai'i it is all about compliance to the international law of occupation