



Nation of Hawai`i

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The Honorable Hillary Rodham Clinton
Secretary of State
U.S. Department of State
2201 C Street NW
Washington, DC 20520

Submitted via the US State Department representatives attending the UPR “Listening Session” in Albuquerque New Mexico March 16th 2010

Aloha Madam Secretary,

There are a lot of important things going on in Hawaii affecting the Native Hawaiian People which are being done without full their knowledge and consent. The Akaka Bill as one example has been the most high profile issue and legislation to date. A handful of very powerful politicians and leaders of several major Hawaiian organizations have, through this legislation, taken upon themselves to decide what form of government is best for the Hawaiian People. This is far from the definition of self-determination under international law as per Article 1, paragraph 2 of the UN Charter, Article 1 of the International Covenant on Civil and Political rights which the US ratified in 1992 and Article 1 of the . International Covenant on Economic, Social and Cultural Rights. The Akaka bill legislation should never have gotten this far without extensive education, input and finally, consent and agreement by the Hawaiian People as a whole.

In 1945, the United States, under the United Nations Decolonization process as spelled out in Article 73 of the Charter, accepted as a sacred trust obligation to promote a full measure of self government for the Hawaiian people. They were to ensure the Hawaiian people their political, economic, social, and educational advancement, just treatment, and protection against abuses. The United States, was supposed to take the Hawaiian people by the hand and guide them towards choosing a form of government. Of course, the outcome of that cover-up was Hawaii becoming the 50th State of the Union. The promise to ensure the Hawaiian People their self-determination through a just, fair, fully participatory and transparent political process was never fulfilled. It is obvious that the Akaka bill is just another attempt to usurp and cover up a fair political process for the Native Hawaiian people based on self-determination as stipulated under International law.

Many Hawaiian organizations, families and individuals in Hawaii and throughout the World, have expressed deep concern and reported various instances of intimidation, coercion and threat of losing state and federal grants and entitlements, for not supporting certain government programs and legislation, which is totally unjust treatment and political abuse.

In a nutshell, the Akaka bill cuts off our genealogical ties to our ancestors, strips us of our sovereignty over our National lands, and changes our National identity, based on our distinct history, language, culture and religion, this is totally unacceptable. If this is to happen to us, then let the Hawaiian People make a well informed and educated decision about our destiny and political status before creating any type of legislation which will, again, decide for us.

Over 7 years, we have seen the United States government support the Peoples of Afghanistan and Iraq, implement their own democratic process through their respective Constitutional Conventions, providing financial aid to help with their processes. It is imperative, that the United States government through their State Department support a Hawaiian Constitutional Convention and provide the financial aid necessary to fulfill the long over due political process for the Native Hawaiian people. In doing so, the U.S. government would finally provide a political sanctuary to protect, guarantee and ensure the Native Hawaiian people, the required period of time, without pressure or coercion, in which they can engage freely, without fear of threat, or intimidation, in the processes of educating themselves about their options of self government, in the assertion of their right to self-determination.

The Native Hawaiian people will need all the time necessary to publicly debate and discuss amongst themselves the various options for self-governance available to them, while having meaningful access to the mainstream news media in Hawaii and abroad.

It must be guaranteed before the process begins that the will and consent of the native Hawaiian people is determinative and will be honored and respected whatever the results might be, including restoration and independence. The latter being based on peaceful, friendly and amicable Treaty relations that was once established and affirmed in 1826, 1849, 1875 and 1884 with the United States. All of these Treaties with the U.S. were violated. (see attachment A: U.S. Public law 103-150 & St. Thomas Law Review by International Law Professor Francis A. Boyle)

We have taken note with appreciation that in 2006 the United Nations Human Rights Committee in paragraph 37 of their “Concluding Observations” addressing the United States report and its compliance with the International Covenant on Civil and Political Rights (ICCPR) stated:

Finally, the Committee regrets that it has not received sufficient information on the consequences on the situation of Indigenous Native Hawaiians of Public Law 103-150 apologizing to the Native Hawaiians Peoples for the illegal overthrow of the Kingdom of Hawaii, which resulted in the suppression of the inherent sovereignty of the Hawaiian people. (articles 1, 26 and 27 in conjunction with Article 2, paragraph 3 of the Covenant).

The State party should review its policy towards indigenous peoples as regards the extinguishment of aboriginal rights on the basis of the plenary power of Congress regarding Indian affairs and grant them the same degree of judicial protection that is available to the non-indigenous population.

It should take further steps in order to secure the rights of all indigenous peoples under articles 1 and 27 of the Covenant to give them greater influence in decision-making affecting their natural environment and their means of subsistence as well as their own culture.

We are asking the U.S. government fulfill its sacred trust obligation and its commitment for the self-determination of all Peoples as stated in Article I of the ICCPR, affirmed by the Human Rights Committee as above, by supporting a Hawaiian Constitutional Convention. This is a very small price to pay for the International Treaties and conventions that were violated in the 1893 Overthrow of the Hawaiian Kingdom and once again, in 1945 under the United Nations Decolonization process.

There is no specific date set at the moment, but the native Hawaiian people will Assemble at the Iolani Palace and call for a free, fair and impartial political process under the rules and procedures of a Constitutional Convention at the determined time.

Let this, NOTICE OF A HAWAIIAN CONSTITUTIONAL CONVENTION IN 2010, be a renewed effort in restoring the International Relations once enjoyed by the Hawaiian people and the United States of America.

BILL OF PARTICULARS AGAINST THE FEDERAL GOVERNMENT OF THE UNITED STATES OF AMERICA

The Kanaka Hawai' Maoli (Native Hawaiian) People

1. The United States of America, has perpetrated innumerable Crimes Against Peace, Crimes Against Humanity and War Crimes against the Native Hawaiian People as recognized by the Nuremberg Charter, Judgment, and Principles. This fundamental principle of international law was expressly incorporated into United States Army Field Manual 27-10(1956), The Law of Land Warfare, Paragraph 498, Crimes Under International Law as follows: *"Any person, whether a member of the armed forces or a civilian, who commits an act which constitutes a crime under international law is responsible therefore and liable to punishment"*.
2. The United States of America, has perpetrated the International Crime of Genocide against the Native Hawaiian People as recognized by the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. Also, under U.S. Public Law 100-606, the Genocide Act.
3. The United States of America, has perpetrated the International Crime of Apartheid against the Native Hawaiian People as recognized by the 1973 International Convention on the Suppression and Punishment of the Crime of Apartheid.
4. The United States of America, has perpetrated a gross and consistent pattern of violations of the most fundamental human rights of the Native Hawaiian People as recognized by the 1948 Universal Declaration of Human Rights.
5. The United States of America, has perpetrated numerous and repeated violations of the 1965 International Convention on the Elimination of All Forms of Racial Discrimination against the Native Hawaiian People.

6. The United States of America, has systematically violated 4 treaties; Treaty of Peace, Friendship and Commerce, on Dec. 23, 1826, Treaty of Friendship, Commerce and Navigation, on Dec. 20, 1849, Reciprocity Treaties on Jan. 30, 1875 and Dec. 6, 1884, it concluded with the Native Hawaiian People in wanton disregard of the basic principle of public international law and practice dictating *pacta sunt servanda*.
7. The United States of America, has denied and violated the international legal right of Native Hawaiian People to self-determination as recognized by the 1945 United Nations Charter, the 1966 International Covenant on Civil and Political Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, fundamental principles of customary international law, and *jus cogens*.
8. The United States of America, has violated the seminal United Nations Declaration on the Granting of Independence to Colonial Countries and Territories of 1960 with respect to Native Hawaiian People and Territories. Pursuant thereto, the Defendant has an absolute international legal obligation to decolonize Native Hawaiian Territory immediately and to transfer all powers it currently exercises there to the Native Hawaiian People.
9. The United States of America, has illegally refused to accord full-scope protections as Prisoners-of-War to captured Native Hawaiian independence fighters in violation of the Third Geneva Convention of 1949 and Additional Protocol I thereto of 1977. The Defendant's treatment of captured Native Hawaiian independence fighters as "common criminals" and "terrorists" constitutes a "grave breach" of the Geneva Accords and thus a serious war crime.
10. The United States of America, has deliberately and systematically permitted, aided and abetted, solicited and conspired to commit the dumping, transportation, and location of nuclear, toxic, medical and otherwise hazardous waste materials on Native Hawaiian National Lands and has thus created a clear and present danger to the lives, health, safety, and physical and mental well-being of the Native Hawaiian People in gross violation of article 3 and article 2(c) of the 1948 Genocide Convention, *inter alia*: "Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part; ..."

Respectfully Submitted,



Dennis Puuhonua B. K. Kanahale
Head Representative, Nation of Hawaii

“God Bless, Hawai’i and God Bless the United States of America”

cc;
President of the United States, Barrack Obama
Office of the High Commissioner on Human Rights