

Kingdom of Hawai'i



Interim Provisional Government



REINSTATEMENT
OF THE
KINGDOM OF HAWAI'I

Comments to U. S. Civil
Rights Commission

WITH
*** POSITION PAPER ***

Kingdom of Hawai'i



Interim Provisional Government Council



Office of the General Advocate Liaison

U.S. COMMISSION ON CIVIL RIGHTS

Hearing - Saturday, August 22, 1998
Honolulu, Hawaii

**RE: COMMENT CONCERNING
APOLOGY AND RECONCILIATION
Public Law 103-150**

I, John B. Nelson, was requested to submit a comment concerning the issues being addressed at the hearings of the U.S. Commission On Civil Rights, held at the University of Hawaii, East-West Hawaiian Imin International Convention Center, on Saturday, August 22, 1998. Letters of Credence concerning my appointment as General Advocate Liaison are on file in the Office of Secretary of State, in Washington, D.C.

Submitted herewith is a true and correct copy of the *Position Paper* of the Interim Provisional Government Council. The *Position Paper* is reiterated and incorporated herein, in its entirety. The apology of the United States of America concerning the wrongful and unlawful overthrow of the Kingdom of Hawai'i is only the first step in a process that demands resolution. (Public Law 103-150, 107 Stat. 1510). An apology without reconciliation and restitution is like a castle in the air. A peaceful Nation was overthrown by unlawful means; the liberties of the descendants of the people that comprised that Nation are now in the balance. Justice demands more than empty words and meaningless gestures.

After attending the above referenced U.S. Commission on Civil Rights hearings, it became apparent that there are several positions being taken on the extent and end of reconciliation. Several Hawaiian groups were represented at the hearing. These groups made reasonably clear comments and proposed certain measures.

Some of the Hawaiian people advocate a Constitutional Convention overseen by the United Nations. This brings up three points for consideration. First, Article II, Section 7 of the United Nations Charter prohibits the United Nations organizations from intervening in matters which are essentially within the domestic jurisdiction of any Nation or State. There are few things more essential and domestic in their nature than the Constitution of a Nation or State. Secondly, the United Nations is not authorized to recognize a Nation. Only one Nation can recognize another Nation. The third point is that in order to become a member in the United Nations, one must already be a recognized Nation. There is no organization advocating the Hawaiian reconciliation and reinstatement process that has the authority to commit or obligate the Nation of the Kingdom of Hawai'i to such an oversight process or to the impositions of such international organizations.

The United Nations participation in the reinstatement process also raises other concerns. The present Constitution for Bosnia is but one example of the United Nations' oversight of countries in transition. The United Nations ended up being directly named in the Preamble to the Constitution of Bosnia, along with several of its Treaties and International agreements. The United Nations' East European Civil Rights Commission appoints three (3) of the judges to its supreme Court, and those appointments cannot be citizens of Bosnia. Several other International organizations are also named in the Constitution, including but not limited to, the International Criminal Police Organization (INTERPOL) and the International Monetary Fund (IMF). INTERPOL, whose base of operations is in France, operates under its own Constitution and has allegiance to no Nation or State. (Constitution and Regulations of INTERPOL, Article 30) The International Monetary Fund appoints the heads of Bosnia's central banking organization which, in turn, directs and controls the entire monetary system of the country. Of no less importance, Article IX of the Charter of the International Monetary Fund excludes it from the judicial, legislative, or executive actions of any member Nation. (60 Stat. 1414) Bosnia is a subjugated country, and is no more than a United Nations' Trust Territory at this time.

Representatives from several of the departments and agencies of the State of Hawaii and the United States appeared at the hearing on August 22, 1998. The position being taken by several of these speakers is nothing more than a furtherance of the original unlawful conquest. The Department of the Interior's representative took up about fifteen (15) minutes of time, and while speaking with all the sincerity that anyone could imagine, said absolutely nothing. One of the Commission panel members stated that the Commission wanted some answers. The Interior Department representative responded that he was not authorized to give any answers. The expensive and senseless appearance of the Department of the Interior was nothing more than a paid vacation for the representative. Other people who had come to make comments were cut short in their presentations while the Interior Department took up valuable time to sincerely say nothing at all.

The representatives of the Office of Hawaiian Affairs (OHA) stated that 30,000 Hawaiian people had died waiting for the acceptance of their application for a home in their native homeland. Other comments were made regarding statistics that show that most of the people on the Hawaiian Islands that were considered as poverty stricken and destitute were of Hawaiian descent. Comments were also made that a majority of the people incarcerated in the prisons were also of Hawaiian descent.

Representatives of the Churches appeared and stated that their religious organizations' efforts had contributed \$3,000,000 (\$3 million) toward reconciliation. The distribution of the \$3 million was, however, restricted to inter-congregational assistance and did not reach many of the affected Hawaiians. It was also related that \$1,000,000 went back to the Churches to administer the program. The gesture is a beginning, however, the effort will not address or effect many of the problems that exist.

The U.S. Department of Justice representative appeared and proposed that a "Nation-within-a-Nation" status should be applied to Hawai'i now. Professor, John Van Dyke, appeared and, likewise, promoted "tribal" status. Both speakers used the "commerce clause" under Article I, Section 8, Clause 3 of the Constitution for the United States of America as the basis of their position.

"Congress shall have Power... To regulate Commerce with foreign Nations, and among the several States, and with the Indian Tribes..."

The issues being addressed during the hearings did not have a proper nexus to “Commerce” in the first instant. The issue in chief was the unlawful overthrow of a peaceful “foreign Nation.” How the character and status of the Nation of the Kingdom of Hawai’i was converted into that of an “Indian Tribe” remains a mystery. No reasonable nexus was ever shown as to how the “commerce clause,” and in particular, how the phrase “Indian Tribe” applied. The Kingdom of Hawai’i had Most Favored Trading Nation Treaty status with the United States at the time of the unlawful overthrow. The Commission Chairman, Charles Maxwell, Sr., raised the issue of the recognized Nation status. The question was never answered by the speakers, and could not be answered because the position was off point and unsupported by necessary facts.

The main or chief issues concerning the unlawful overthrow of the Kingdom of Hawai’i arise under the *Constitution for the United States of America*, Article I, Section 8, Clause 10, “*Law of Nations*,” and Article VI, Clause 2, “Treaties made or which shall be made, under Authority of the United States.”

The fact that the constitutional Government of the Kingdom of Hawai’i was overthrown by force and threat of force is admitted in Public Law 103-150.

“If the weaker Nation can show that the apparent absence of opposition was due to the use of force against it, no inference can be drawn from its silence, and no rights accrue to the usurper.” (Position Paper, pg. 5)

The direct and continued violation of the *Law of Nations* is declared in the Position Paper. Reconciliation, in this instant, must take on more than mere words and empty connotations of appeasement. The Hawaiian people were unlawfully subjugated right along with their Nation. Several Treaties were broken and violated by the United States of America. Of no less importance, Public Law 103-150 admits the direct violation of diplomatic recognition and immunity. The Vienna Convention, to which the United States is a party, is evidence of the long-standing principle of the *Law of Nations*. It will not be pretended by anyone that the United States did not take an aggressive posture when Iraq attacked and took over Kuwait. It will not be pretended that the United States did not take an aggressive posture when their Embassies were recently attacked and bombed in Africa. The question needs to be asked about the great difference between these recent incidents and those that occurred in the Nation and Kingdom of Hawai’i over one hundred years ago. A double standard is being applied and proposed. The double standard makes the apology and reconciliation mere words on paper and a sham.

“A dwarf is as much a man as a giant is; a small Republic no less a sovereign State than the most Powerful Kingdom.” (See: Position Paper, pg. 7)

The position being taken and proposed by the usurping party is that the Hawaiian people are to be considered the same as the Native American Indian Tribes. This position is not sustainable. The Kingdom of Hawai'i had a recognized and highly developed Constitution. The Nation of Hawai'i had the necessary and recognized Executive, Legislative, and Judicial branches of Government and an independent Treasury. It had and maintained treaties and diplomatic relations with other Nations around the world. The Kingdom of Hawai'i had diplomatic representatives including Ambassadors and Consuls. To reduce the Nation and Kingdom of Hawai'i to tribal state, at this time, is wholly unjustifiable and unjust. It must be remembered that:

“Nations or States are political bodies, Societies of men who have united together and combined their forces, in order to procure their mutual welfare and security.

Such a society has its own affairs and interests; it deliberates and takes resolutions in common, and it thus becomes a moral person having an understanding and will peculiar to itself, and susceptible at once of obligations and of rights.” (See: Position Paper, pg. 3)

The Kingdom of Hawai'i met the definitions and criteria of a “Nation.” It is necessary and proper to accord it that recognition now.

The “liberties” of men are more than “civil” in their nature. Man has “natural”, “personal”, “civil”, and “political” liberties which are all under consideration at this time. The continued subjugation of the Hawaiian people, and the continued effort to oppress them in the exercise of their “perfect rights” and “perfect obligations”, at this time, violates the fundamental principles upon which every Nation is founded. The position taken by several speakers at the hearing held on Saturday, August 22, 1998, is nothing more than the furtherance of the unlawful conquest. Conquest has not been an acceptable practice for centuries. Treatise On The True Original Extent And End Of Civil Government, (1690) John Locke, Chapter XVI, Section 175). The reinstatement of the unlawfully overthrown Nation of the Kingdom of Hawai'i will proceed in accordance with the principles of the *Law of Nations*.

The Kingdom of Hawai'i was unjustifiably and unlawfully overthrown and the duly established Government of that Nation was dissolved. The conditions which constitute dissolution of Government and the recognized general process of reinstating such a Government after dissolution is clearly stated and outlined in John Locke's "Treatise On The True Original Extent And End Of Civil Government," Chapter XIX.

"217. Fourthly, The delivery also of the people into the subjection of foreign power, either by the prince, or by the legislative, is certainly a change of the legislative, and so a dissolution of government. For the end why people entered into society being to be preserved as one entire, free, independent society, to be governed by its own laws, this is lost whenever they are given up into the power of another."

"220. In these and like cases, when the government is dissolved, the people are at liberty to provide for themselves by erecting a new legislative, differing from the other, by the change of persons, or form, or both, as they shall find it most for their safety and good. For the society can never, by the fault of another, lose the native and original right it has to preserve itself, which can only be done by a settled legislative, and a fair and impartial execution of the laws made by it..."

The Constitution for the Kingdom of Hawai'i (1887) followed the same recognized principles for reinstating the Nation should dissolution of the government occur. (See: Position Paper, pgs. 18 and 19) The process requires the reinstatement and action of a duly elected Legislature, which is the objective of the Interim Provisional Government Council.

It will be noted here that several other Hawaiian groups advocate the setting of a Legislature, and some are proposing a Constitutional Convention (Con-Con). Some of these same groups are unilaterally imposing conditions on participants, whereby anyone participating in their proposed process must be a "citizen of the United States." The doctrine of "self-determination" does not include allowing the citizens of one Nation to vote in the election of another Nation, nor does it allow the citizens of another Nation to hold a Constitutional Convention to determine the form of Government which will be imposed upon another Nation and people. This position is the equivalent of saying that the usurping party's citizens will now determine the form of the reinstated government. Other than conquest, few things could be more contrary to the principle of "self-determination."

The citizenship forms and voter registration forms from the Kingdom of Hawai'i have been acquired from the archives and will be made available to those that want to participate in the self-determination and reinstatement process. Anything less would be a sham and would leave the door open to considerable conflicts later on. Citizens of several other Nations are also present on the Hawaiian Islands. Why not let them vote in the election and participate in the Constitutional Convention also? Objection is made here to any proposed process which would cause any further usurpation of the rights and powers which belong solely to the descendants of the people of the Kingdom of Hawai'i, including but not limited to, self-governance.

Notice will be taken here that several Hawaiians made comments and objections on the record that there had been a series of four (4) hearings held by the U.S. Commission on Civil Rights. In 1991, the Civil Rights Commission sent its recommendations to Congress, and nothing was done by Congress to correct this grave and continued problem. The recommendations of the U.S. Commission on Civil Rights were and are merely advisory opinions, and while considering the past acts and omissions, it will be assumed here that the apology of the United States was merely words on paper and political rhetoric designed to further the unlawful usurpation and conquest in direct and intentional violation of the *Law of Nations*. The very existence and sovereignty of the United States of America is based upon the same fundamental principles and rights which are now being asserted by the descendants of the people of the Kingdom of Hawai'i. To deny these rights to the Hawaiian people now is the equivalent of denying the people of the United States of America the right to establish, ordain, or amend their own Constitution

THEREFORE, the reinstatement process will need to follow the general procedure stated below:

1. Twenty-four (24) people of Hawaiian descent, preferably the descendants of the Ali'i, will be appointed and will file the appropriate documents, including but not limited to, a declaration of Hawaiian National citizenship, and an "Acceptance" of the temporary position in the INTERIM PROVISIONAL GOVERNMENT.
2. The Appointment and Acceptance will be publicly recorded, published and posted at the Palace. Anyone having an objection to any such appointee may lodge their objection, and will thereafter be heard before Council at an appointed date and time.

3. The same said twenty-four Appointees will act as "Election Commissioners" for the twenty-four (24) voting districts located in the Hawaiian Islands.
4. Candidates for the Legislature will be required to subscribe and file Hawaiian National citizenship forms, and further, will subscribe and file the appropriate Notice of running for the elective office of Noble (Senator) or Representative in the Hawaiian National Legislature.
5. Voters will be required to sign and file a Hawaiian National Citizenship form and a voter registration form before being allowed to vote in the election. These forms were taken and duplicated from the archives in Honolulu, Hawai'i.
6. Elections will be run as closely as possible to the preexisting Kingdom of Hawai'i election laws.
7. A separate account will be set up to provide financial assistance to defray the cost of the election of the Legislature. Should any funds remain in said account after the election, they shall be turned over to the Legislative body to defray the expenses of the first Legislature and the Constitutional Convention which will have to be held to amend the Constitution for the Kingdom of Hawai'i.
8. The Legislature will be guided by the preexisting Rules of the Legislature of the Kingdom of Hawai'i until duly amended by said elected body. The adoption of the preexisting rules will help expedite the process and alleviate confusion.
9. The Legislature will be required to make several internal appointments, including but not limited to, a Speaker of the House of Representatives, and a President of the House of Nobles (Senate), along with such clerks, recorders, sergeant-at-arms, etc., as are necessary to the proper function of said body politic.
10. The Legislature will accept proposed amendments to the Constitution for the Kingdom of Hawai'i pursuant to the Rules of the Legislature (1890), and will set the time and place of the Constitutional Convention.

The form of government will be chosen only by those people that openly declare that they are members in the society. How the government is structured and its powers, duties, and obligations will only be by the consent of the governed. The limitations and rights reserved will be left to the determination of the only proper parties, that is to say, the declared citizens of the Nation of Hawai'i.

If the U.S. Commission on Civil Rights desires to put further recommendations before the U.S. Congress, the Commission can suggest that Congress appropriate such funds as are necessary to complete the reinstatement process. Then, the recognized governments of each Nation can deal with each other on a Nation-to-Nation basis. There is no one capable of obligating the Nation of Hawai'i to anything at this time. The Commission hearings have been and are an effort in futility and a needless expenditure of time and resources when dealing with many of the issues concerning reconciliation and reinstatement. The obligation of the United States in this instant reaches far beyond housing, congressional aid packages, and civil rights. The violation of the *Law of Nations* has been admitted, the damage is done, and restitution is now in order.

CONGRESS CAN AND SHOULD take eight (8) fundamental actions at this time which will assist in the reconciliation and reinstatement process.

I. Enact legislation which will provide for and appropriate necessary funding to reinstate the Nation of Hawai'i, including but not limited to;

- (1) all of the costs and expenses of an election necessary to reinstate and sustain the Legislature of the Kingdom of Hawai'i for a minimum period of eight years;
- (2) all of the costs and expenses of holding Legislative sessions for a minimum period of eight years;
- (3) all of the costs and expenses of holding a Constitutional Convention to amend the Constitution for the Kingdom of Hawai'i;
- (4) all of the costs and expenses of reinstating such executive and judicial offices as are deemed necessary and proper under the amended Constitution for the Kingdom of Hawai'i, and that said appropriations be made for a minimum time period of eight years;

- (5) provide and appropriate funds to pay for adequate office and meeting space, office personnel, equipment and supplies for the Legislature, the Constitutional Convention, and for the Executive and Judicial Branches, as mentioned above, for a minimum period of eight years; and
- (6) provide and appropriate adequate funds to educate the elected and appointed officials of the Nation of Hawai'i in the *Law of Nations*, and in the operations of the existing governmental departments and agencies of the state of Hawaii and the facilities and conveniences that they now control; and,

II. Enact legislation that makes it possible for any private party or non-governmental organization to make tax deductible contributions or donations to a separate election fund, which will be held and accounted for by an impartial third party, and utilized for the express purpose of reinstating the Government of the Nation of the unlawfully overthrown and dissolved Kingdom of Hawai'i.

III. Enact legislation that directs that any of the property, rights to property, or interest therein, as are now held in trust for the Hawaiian and Native Hawaiian people under the Office of Hawaiian Affairs, be transferred over to the control of the Legislature of the Nation of Hawai'i at the first session of the Legislature of the Hawaiian Nation after the Constitutional Convention is completed.

IV. Direct all *de facto* departments and agencies to cease and desist from taking any action(s) which would impede, impair, or unduly influence the reinstatement process, including but not limited to, the U. S. Department of Justice, Department of Interior, Department of Agriculture, Department of Commerce, Department of State, Department of Treasury, and the State of Hawaii; and,

V. Enact legislation that directs all international organizations such as the United Nations, the International Monetary Fund (IMF), the International Bank For Reconstruction And Development (World Bank), and the International Criminal Police Organization (INTERPOL) to cease and desist from any action(s) which would impede, impair, or unduly influence the reinstatement process.

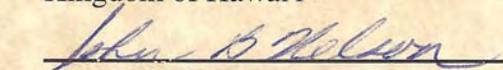
VI. Enact legislation that extends diplomatic recognition, courtesy and immunity to those that directly participate in the reinstatement process in an official character.

VII. Enact legislation that recognizes and extends such liberties, privileges and immunities to the citizens of the Nation of Hawai'i as are just and proper under the *Law of Nations*, and that those participating in the reinstatement process shall not be deemed to be expatriates until such time as the status and character at the Nation of Hawai'i is finally determined by the citizens and people thereof.

VIII. If it is finally determined that the reinstated Nation of Hawai'i is to take up its full sovereignty, character and capacity among Nations, Congress should provide for an extended transitional period whereby the people and Government of the reinstated Nation of Hawai'i might be properly instructed in the operation, care, costs, and maintenance of the numerous components, services, and public facilities that exist on the Hawaiian Islands at this time, and for which they will be assuming the responsibility.

Dated this 29TH day of September, in the year of our Lord 1998.

By the Grace of God;
Kingdom of Hawai'i


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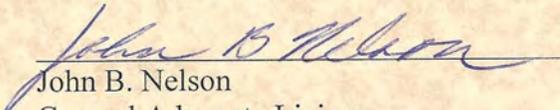
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P.S. We would all like to extend our thanks and appreciation to all the members of the Commission for their time, patience, and efforts in this matter. The task is not easy, however, it was mankind that created this condition over a century ago; it is mankind that can change those conditions and resolve these problems today.

PLEASE FORWARD ANY REPORTS OR RECOMMENDATIONS of the U.S. Commission on Civil Rights pertaining to the four (4) hearings on Public Law 103-150 to the address given below.

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Thank You,


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