

Kingdom of Hawai'i



Interim Provisional Government Council Privy Council



Letter of Protest

WHEREAS¹, the de jure [Kingdom of Hawai'i](#), through the Privy Council of the Interim Provisional Government Council, and Advocate General hereby gives this LETTER OF PROTEST to the “*Study on the International Law and Policy Relating to the Situation of the Native Hawaiian People*” by S. James Anaya and Robert A. Williams, June 2015, hereafter called “the Study”, which tried to address questions asked and could not answer at Kāmau a Ea V on November 1, 2014;

WHEREAS, the *Study* by S. James Anaya and Robert A. Williams is historically flawed and factually inaccurate making the *Study* substantively defective in its analysis and empiric conclusions. In addition, the Study assumes that third party states can be held bound by a treaty contract or international agreement without their consent, and that a collective international “norm” can be created by an innovative analytical methodology that assumes the status of customary law.

WHEREAS, S. James Anaya and Robert A. Williams international, multinational and bilateral history starts at the creation of the United Nations, October 24, 1945, and that all must categorically follow its rules to assert and exercise political liberty and rights or to acquire recognition as a functional Nation. Sovereignty and Nation recognition in the authors’ innovative methodology is but a mockery of voluntary, conventional and customary law. The non-binding emergence of indigenous political rights by the Declaration of an international or multinational organization does not qualified as a “norm.”

¹ Amount of times term is used in study within brackets [].

WHEREAS, the *Study* fails to address that *Kingdom of Hawai`i*, *Hawaiian Government*, *Government of the Sandwich Islands*, or other names known as, and recognized throughout history. From the time of national unification of these islands in 1810 until 1839 it was governed as an *Absolute Monarchy*. In 1840 the unified territory rose in stature and function to a recognized mixed government with a fully functional written Constitution. The *Constitutional Monarchy* from 1840—1893 was a recognized sovereign Nation modeled after the monarchical form of government of Great Britain and the republican form of government of the United States of America. The *Kingdom of Hawai`i* fulfilled and faithfully performed the perfect rights and perfect obligations of a recognizable sovereign Nation under the necessary and recognized standards of Law of Nations as espoused by Emer de Vattel. Those same fundamental standards and the principles of *Law of Nations* were used by the Founding Father to ordain and establish the United States of America and to gain de jure and independent status recognition by other Nations (*A Civilized Nation: The Early American Constitution, The Law Of Nations, And The Pursuit Of International Recognition*, Golove & Hulsebosch, 85 New York University Law Review 101 (2010) - <http://ssrn.com/abstract=1669452>),

WHEREAS, the *Study* fails to state and recognize that the *Kingdom of Hawai`i* was overthrown by force of arms and threat by Great Britain's naval forces on February 11, 1843. The act of rogue aggression was in violation of *Law of Nations* and *Peremptory Norms*. As a result, the unlawful acts of Lord George Paulet and Great Britain's naval forces were repudiated on July 31, 1843. The entire sovereignty of the *Nation of Hawai`i* was returned to the authority of King Kamehameha III.

WHEREAS, the *Study* fails to state and recognize the fact that the *Kingdom of Hawai`i*, received formal recognition as an independent Nation by the Great Britain and the French government on November 28, 1843. The Study also fails to state and recognized the fact that on July 6, 1846, U.S. Secretary of State, John C. Calhoun, on behalf of President Tyler, afforded independent Nation status and recognition of the *Kingdom of Hawai`i* under the reign of Kamehameha III;

WHEREAS, the *Study* fails to state and recognize that the publicly admitted act of unauthorized, unjust, and unlawful act of war and aggression against a treated and peaceful Nation and as committed by U.S. State Department Minister John L. Stevens and U.S. Naval forces on and after January 16, 1893, and in support of the overthrow of the Constitutional government of the *Kingdom of Hawai`i* was in violation of *Law of Nations* and long recognized *Peremptory Norms* (Public Law 103-150; *Law of Nations*, Vattel, Book III, Chapter III, §27, Chapter XI, Of The Sovereign Who Wages An Unjust War (“Whoever therefore takes up arms without a lawful cause, can absolutely have no right whatever: every act of hostility he commits is an act of injustice.” §183 “He who does an injury is bound to repair the damage, or to make adequate satisfaction of the evil be irreparable...§185); *Vienna Convention on the Law of Treaties, Article 53*);

WHEREAS, the *Study* fails to state and recognized that after violating *Law of Nations* and long recognized *Peremptory Norms*, the United States had no just right to unilaterally annex the territory of the Hawaiian Islands under pretext of a war with Spain and national security, or to thereafter abolish the lawful and *de jure* government of the *Kingdom of Hawai`i* and to colonize Hawai`i by creating and establish a territorial government under the dominion and control of the United States Congress.

WHEREAS, the *Study* fails to state and recognized that the Constitution for the Kingdom of Hawaii, Article 59, specifically recognized Hawaiians, as well an American, and European residents as qualified electors, and further, that they could hold and exercise the powers of public offices. The Study also fails to state and recognize that it is unjust and unlawful to disenfranchise any of the descendants of the Kingdom of Hawai'i under the perfidious pretext of indigenous rights.

WHEREAS, the *Study* fails to state and recognize the fact that the independent *Kingdom of Hawai'i* was the first non-European member of the *Family of Nations*;

WHEREAS, the *Study* fails to address that *Kingdom of Hawai'i*, had its own domestic laws regarding *Citizen / Subjects* and *Natives and Naturalization* (see attached). A foreigner that was *Naturalized* was considered a *Native*, then so were their descendants, therefore **Native Hawaiian** as used in the *Study* and in other related schemes has nothing to with a race or blood. The unstated and evaded facts makes the term **indigenous** [332] irrelevant, perfidious, and of no lawful effect. The Office of Hawaiian Affairs (OHA) has been sued several times over voter discrimination and has lost under the Constitution and laws of the United States. Again the *Privy Council* states that term “**indigenous**” or “**indigenous people**” [192] does not apply to the right of the descendants of the *Kingdom of Hawai'i* to reinstate their wrongfully overthrown government or to seek recognition as a Nation from other Nations. S. James Anaya and Robert A. Williams' attempt to put *Hawaiians* into an indigenous box with limited rights to accept a state of modified colonization is demeaning, insulting, and a clear and ongoing breach of obligations;

WHEREAS, the *Study* fails to address along with most academics, lawyers, historians, and never question, challenge, or correct, where a foreign government (United States) can determine and classify the people of another country as in the case of the *Kingdom of Hawai'i*. These failures caused bad law as used in the so-called *Apology Resolution, Act 195*, and many United States and State of Hawaii legislation, shown as follows;

1. An individual who is a descendant of the aboriginal peoples who prior to 1778, occupied and exercised sovereignty in the Hawaiian islands, the area that now constitutes the state of Hawaii; or...
2. The Apology Resolution acknowledges that the illegal overthrow of the Hawaiian Kingdom occurred with the active participation of agents and citizens of the United States and further acknowledges that the Native Hawaiian people never directly relinquished to the United states their claims to their inherent sovereignty as a people over their national lands, either through a Treaty of Annexation or through a plebiscite or referendum.

WHEREAS, the *Kingdom of Hawai'i* as a full **sovereign Nation** until 1893 and its people were of aboriginal, mixed and naturalized making #1 above, false, erroneous, inaccurate, and should never be used, quoted or cited. In #2, it was the **Nation** through *Queen Lili'uokalani* that did not relinquish the sovereignty of the *Kingdom of Hawai'i*, **not** the **Native Hawaiian** people as many so-called academics, lawyers, historians, politicians including writers of this *Study* get wrong. The rights, liberties, powers, along with duties and obligations belong to the ***Nation of Hawai'i***, not the people.

WHEREAS, the *Study* uses *decolonization* [62] sixty-two times, yet the *Kingdom of Hawai`i* was never a [colony](#) or colonized, so how can you use decolonization? Here is another erroneous method that is factually incorrect and useless;

WHEREAS, the *Study* uses [occupation](#) [6] and *de-occupation* [5] terms incorrectly, even many in Hawaii, mainly Mr. Sai and his followers use this term without merit. [Occupation](#) according to the *Rules of War* never occurred in the history of Hawai`i, that is why the United States can reject this argument so easily because it does not apply;

WHEREAS, the *Study* neglects to address that the *overthrow* [8] was actually a *coup d'état* by a small group of subjects and foreigners and the Minister of the United States acting outside of his authority and sanction of the United States of America on January 17, 1893, on that same day Queen Lili'uokalani formally Protested, her protest was according to ***The Law Of Nations Or The Principles Of The Natural Law***, Emer De Vattel, Book I, Chapter XVI, § 199. President [Grover Cleveland's address](#) to Congress, December 18, 1893 which he states: "The [law of nations](#) is founded upon reason and justice, and the rules of conduct governing individual relations between citizens or subjects of a civilized state are equally applicable as between enlightened nations." Understanding this part of history that the United States of America did not overthrow the *Kingdom of Hawai`i*. Since S. James Anaya and Robert A. Williams lack the understanding and training in the [Law of Nations](#) [6] or [Peremptory Norms](#) [0], and promoting the only methods they have been trained in;

Similarly, if a State were to change its form of government, for instance, from a monarchy to a republic, in a constitutional manner and without anything in the nature of a *coup d'état*, it is unlikely now that other States would withhold their recognition of the new Government. *International Law* [L. Oppenheim] – Vol I – §75a, page 128.

§75b. When, however, the new Head or Government, be it a monarch succeeding another monarch, a President of a republic succeeding another President, a monarch succeeding a President of a republic, or a President of a republic a monarch, comes into power not in a constitutional manner but after a *coup d'état*, a revolution (which need not involve bloodshed), or any other event involving a break in legal continuity, the determination by other States of the attitude to be adopted towards the new Head or Government is often difficult...When coupled with assistance given to the rebellious party it undoubtedly constitutes an illegal act of intervention. *International Law* [L. Oppenheim] – Vol I – §75b, page 129.

WHEREAS, the *Study* neglects to address that the *Law of Nations* is an integral part of the Constitution of the *Kingdom of Hawai`i* and the *United States of America*;

Article I, Section 8, Clause 10, to wit:

"Congress shall have Power...To define and punish Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations..."

[Constitution for the Kingdom of Hawai`i \(as amended 1887\)](#).

"Article 29. The King has the power to make Treaties. Treaties involving changes in the Tariff or in any law of the Kingdom, shall be referred for approval to the Legislature. The King appoints Public Ministers, who shall be commissioned, accredited, and **instructed agreeably to the usage and law of nations.**"

WHEREAS, the *Study* neglects to address that when the *Provisional Government* [usurped](#) [0] the *Kingdom of Hawai'i* government without any lawful [0] authority [39] which created usurper #2 the *Republic of Hawaii* which transferred usurped unlawful [0] authority to usurper #3 *Unincorporated Territory of Hawaii* then to usurper #4 *Incorporated Territory of Hawaii* then finally usurper #5 the *State of Hawaii*. Attempts to Annex [0] between 1893—1898 was met by opposition of many of the Hawaiian people, but also the less know Anti-Annexation people and members of United States Congress;

WHEREAS, two of the most cited authorities against the un-constitutional annexation Hawaii were Thomas M. Cooley's "*Grave Obstacles to Hawaiian Annexation*" June 1893 and George Ticknor Curtis's "*Is it Constitutional*" 1893, *Annexation by Treaty* failed, therefore another means to un-constitutionally annex Hawaii had to be implemented by Congress in [Joint Resolution 55](#) (*Newlands Resolution*) 30 Stat. 750 a domestic law, without any constitutional authority outside the United States and the United States continues to be a usurper exercising un-constitutional authority without any rights whatsoever as stated in *Law of Nations*;

"But if the Nation which is protected, or which has placed itself in subjection upon certain condition, does not resist the encroachments of the power from which it has sought support, if it makes no opposition, and keeps absolutely silent when it could and should speak, its acquiescence constitutes, in the course of time, an implied consent, the silence must be voluntary. 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." (*The Law Of Nations Or The Principles Of The Natural Law*, Emer De Vattel, Book I, Chapter XVI, § 199)

WHEREAS, the *Study* neglects to address the defects in the United States' rights, authority, or claim to the Hawaiian Archipelago. The *United States* [121] is aware of the defects and hope the people of Hawai'i lack the education to exercise all *Natural Rights* [0] and *Liberties* [0] and forfeit their *Right to Reinstate* [0] its *lawful* [0] *de jure* [0] *government* and become a *subjugated Tribe* [60] with all rights dictated by the *Usurper* as promoted by S. James Anaya and Robert A. Williams;

WHEREAS, the *Study* uses [self-determination](#) [80] eighty times in this *Study* and to exercise self-determination you must be classification as *Indigenous peoples* [192], and is not **regarded as general principles of law** as stated by:

Aureliu Cristescu the writer of the report for the United Nations titled THE RIGHT TO SELF-DETERMINATION — Historical And Current Development On The Basis Of United Nations Instruments (1981) states in a disclaimer: "The opinions expressed in the present study are those of the Special Rapporteur"

And in THE RIGHT TO SELF-DETERMINATION — Historical And Current Development On The Basis Of United Nations Instruments (1981) Chapter III, B, 3 §153 states as follows: "No United Nations instrument places equal rights and self-determination of peoples among the general principles of law referred to in the Statute of the International Court of Justice. The nature of general principles of law and their place in the hierarchy of legal rules are somewhat debatable. However, if we accept the view adopted in judicial practice that these principles are of a subsidiary character and apply only in the absence of conventional or customary rules, we may conclude that equal rights and self-determination of peoples **cannot be regarded as general principles of law.**" (Emphases added)

See: The Right To Self Determination – Historical And Current Development On The Basis Of United Nations Instruments, Chapter II, pg. 5

“The opinion was expressed that the right to self-determination should not be confused with the rights of minorities, since the authors of the Charter had not intended to give that right to minorities. The right to self-determination should not be exercised to destroy the unity of a nation or to impede the creation of that unity, in violation of national sovereignty. With regard to the nature of the right, it was held to be a true right possessing political, economic and legal elements. The right of peoples to self-determination had two aspects: from the domestic point of view it signified the people's right to self-government and from the external point of view their independence. It was pointed out that the application of the principle of self-determination was a condition of international peace and security and of fruitful international co-operation.”

WHEREAS, the *Study* alludes to and promotes the *United Nations* [32], and its declarations and international agreements trying to put *Native Hawaiians* [135] into a classification as *Indigenous peoples* [192] and claiming that the *U.N. Declaration on the Rights of Indigenous Peoples* is a well established, customary law and “norm” is a bare assumption at best, and not stating that the *U.N. Declaration on the Rights of Indigenous Peoples* is “**non-binding**” and not a *Peremptory Norm*. The Hawaiian history and aforementioned above, *Indigenous* [334] does not applied, nor does *de-colonization* [62] apply, to agree with these terminology, rights to the lawful government maybe unknowingly waived;

WHEREAS, the *Study* neglects to address that the *United Nations* is a union, club, group of members nations and that the *United Nations* is not a sovereign [11] Nation and cannot recognize any nation under *Recognition Doctrine*. The *United Nations* cannot violate the *Law of Nations* [0], *International Law* [62], and *Peremptory Norm* [0] or *Jus Cogens* [0] which is all in the favor of the *Kingdom of Hawai`i* and no other;

WHEREAS, the *Study* assumes the United States has legal rights, without researching deeply into whether it had a *lawful right* or *moral right*, not just *de facto* [0] control only. This *Study* does not discuss *de facto* [0] or *de jure* [0] authority of a Nation, in *International Law*, *de facto* is **revocable**, *de jure* is **irrevocable**;

It is believed that in International Law the tendency is to regard *de facto* recognition as revocable and *de jure* recognition once given as definitive and irrevocable. *International Law* [L. Oppenheim] – Vol I – §75f, page 136.

WHEREAS, the *Study* neglects to address or S. James Anaya and Robert A. Williams are unaware of *Recognition Doctrine* [0], and that the *Kingdom of Hawai`i* has the *right, liberty, authority, and power* to **Reinstate** [1] its lawful *de jure* Government without the United States permission or anyone’s permission, furthermore *Kingdom of Hawai`i* can seek *recognition* [40] from any full sovereign country before any recognition of the United States. according to *Recognition Doctrine*;

WHEREAS, the *Study* disregards that the *Kingdom of Hawai`i* was quite different and politically more than that when the government was wrongfully overthrown, the territory annexed and the Nation usurped by the same wrongdoer. The *Kingdom of Hawai`i* was fully recognized, fully functional, and the Nation was truly independent when it was wrongfully overthrown. If *Law of Nations* and the *perfect right* to justice are to prevail, the *Nation of Hawai`i* will have the right to be made whole again and without reference to any indigenous or race based status or international declaration. Indigenous rights are the path to dependent status where colonization is modified;

Letter of Protest

WHEREAS, the *Study* and the *usurpers* including the *United States*, want to change the argument and status from the *Perfect Right* of a truly independent *Nation of Hawai`i*, and to convert it to *collective rights* [35] of so called *Native Hawaiian* [135] to *Indigenous (tribal) rights* [51] which is a lesser status and *subjugated restricted rights*;

WHEREAS, the *Study* **does not** point out that pursuant to *Recognition Doctrine* and the *Perfect Right* of a truly independent *Nation of Hawai`i* that Hawaiians decedents both born and naturalized only have one of two choices, 1) be a citizens of the *Nation of Hawai`i* or 2) be a foreigner in the *Nation of Hawai`i* (no matter what your blood is). The *Perfect Right* and *Perfect Obligation* of a truly independent *Nation of Hawai`i* is not for debate or discussion the [Law of Nations](#) [6] and [Peremptory Norms](#) [0] has addressed and settled that issue;

THEREFORE, We hereby give this *Letter of Protest* to S. James Anaya and Robert A. Williams the writers of “*Study on the International Law and Policy Relating to the Situation of the Native Hawaiian People*” should do more in-depth, accurate, historically correct study of the history of the Kingdom of Hawai`i as a Nation and its people;

S. James Anaya and Robert A. Williams should have reviewed the movie [Pa`a Ke Aupuni](#) that your contractor Office of Hawaiian Affairs helped create, before submitting your *Study*, you might have made less errors;

S. James Anaya and Robert A. Williams must cease from trying to put the People of the *Nation of Hawai`i* in the indigenous box of the United States, United Nations or any other entity;

The *Kingdom of Hawai`i* as a **Nation**, in the *Family of Nations*, was very unique. The way in which it was usurped and taken control over was unique and never done before in history, even though it was un-constitutional. The *Reinstatement of the Nation* will also be unique and **Lawful**;

The *Kingdom of Hawai`i* through the *Privy Council* of the *Interim Provisional Government* through the *Advocate General* and by the authority of *Constitution* and *Laws* of the *Kingdom of Hawai`i* present this “*Letter of Protest*”.

DONE this 26th day of August 2015 Anno Domini.



Dennis W. Ragsdale, Advocate General,
Sui Juris, Jure Soli,
Jure Sanguinis, Jure Coronea

Privy Council:

Dennis W. Ragsdale, Advocate General
Sterling D. Ing, Acting Minister of Finance
Henry K. J. Tripp, Acting Minister of the Interior
Russell Stewart, Acting Minister of Foreign Affairs

And John B. Nelson, *General Advocate Liaison*

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Frequency of Terms

Rights	449	Sovereign	11
Human Rights	172	Self-governance	10
Collective Rights.....	35	Overthrow	8
Rights of indigenous people.....	51	Apology.....	7
Political Rights.....	7	Law of Nations.....	6
Natural Rights	0	Occupation	6
Indigenous.....	334	De-occupations	5
Indigenous peoples.....	192	Human Rights Norms	2
Hawaiian	179	Kingdom of Hawai`i	2
Native.....	152	Annexation.....	1
Native Hawaiian(s)	135	Authoritative Norms	1
United States	121	Joint Resolution	1
Self-determination.....	80	Reinstate.....	1
UN.....	80	De Facto	0
United Nations	32	De Jure	0
Treaty	76	Family of Nations	0
Decolonization	62	Jus Cogens	0
International Law	62	Lawful.....	0
Tribe.....	60	Liberty.....	0
Recognition.....	40	Naturalized.....	0
Recognition Doctrine	0	Peremptory Norms	0
Authority	39	Unlawful	0
Sovereignty	31	Usurp or usurper	0
Independent.....	25	War.....	0
Citizen(s).....	16		
Illegal	13		
Self-government.....	12		

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Kamau a Ea 5 Prioritized Questions

International Recognition Panel

Rank	Score	Question
1	7.26	What are the necessary steps to successfully achieve recognition of the Hawaiian Kingdom on an international level?
2	7.14	Both the Constitution for the Kingdom of Hawai'i and the Constitution for the United States of America specifically mention Law of Nations. Fundamental writers on the formation and recognition of the United States into the family of Nations specifically mention the importance of Law of Nations. Is the Law of Nations self-implementing in the United States, and if so, how is the Law of Nations to be applied to the wrongful overthrow of the Nation and government of the Kingdom of Hawai'i?
3	6.75	So as not to get the cart before the horse, there are distinctions between "Constitution Making" and "Nation Building" that include recognition by and relations with other Nations. Would you please describe the differences between Constitution Making and Nation Building and explain why and how they are interrelated?
4	6.62	What happens if the U.S. Says "No" to efforts to reestablish a Hawaiian Kingdom government?
5	6.52	It is publicly admitted and factually indisputable that the wrongful overthrow of the Nation of Hawai'i was in violation of Law of Nations and peremptory norms. Is Law of Nations still the standard for Nation functionality and governmental recognition?
6	6.46	How and when was title and jurisdiction legally transferred to the U.S.?
7	6.40	What are the next steps once international recognition of the Hawaiian Kingdom occurs?
8	6.39	How are the current governmental services going to be transitioned and where will our funding come from?
9	6.38	The Constitution for the Kingdom of Hawai'i recognized native Hawaiians and naturalized American and European people as being citizens of the Nation of Hawai'i. That same Constitution recognized those citizens as being the electors and that they could hold and exercise the powers of public offices. Is it improper to discriminate against and disenfranchise the posterity of those naturalized citizens in the current reinstatement process for the Hawaiian Nation?
10	6.34	There has been some discussion about continuing military occupation, more properly, "subjugation" of the territory of the Hawaiian Islands and Nation by the United States. Does foreign military occupation legally cease when the territory of the occupied or subjugated Nation or State is annexed by and made a part of the foreign State, and does annexation of such territory require the consent of those who traditionally inhabited the territory before the act of annexation?

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Kingdom of Hawai'i



Interim Provisional Government Council Privy Council



We, the Ministers of the *Privy Council* of the *Interim Provisional Government Council* for the *Kingdom of Hawai'i* hereby welcome you the panelist for “Kāmau a Ea V” sponsored by the Office of Hawaiian Affairs on November 1, 2014.

We humbly request that you address the following questions as thoroughly as possible in writing and return to the *Privy Council*, and if time permitting at the symposium. The questions are addressed to the two panels, *International Recognition* and *Federal Recognition* separately, but we would like to request that the following questions be addressed by all panelists.

The questions are as followed:

I. Panel Members – Session 1 – International Recognition.

James Anaya, Robert Williams, Francis Boyle, and Lauri Malksoo

QUESTIONS.

1. *It is publicly admitted and factually indisputable that the wrongful overthrow of the Nation of Hawai'i was in violation of Law of Nations and peremptory norms. Is Law of Nations still the standard for Nation functionality and governmental recognition?*
2. *There has been some discussion about continuing military occupation, more properly, "subjugation" of the territory of the Hawaiian Islands and Nation by the United States. Does foreign military occupation legally cease when the territory of the occupied or subjugated Nation or State is annexed by and made a part of the foreign State, and does annexation of such territory require the consent of those who traditionally inhabited the territory before the act of annexation?*
3. *The Constitution for the Kingdom of Hawai'i and domestic laws established the general method and procedures by which the Executive Department could be reconstituted if there was a failure in the performance of that Department. Although it is not possible to follow that Constitutional method because of the complete dissolution of the Hawaiian government by the United States, should that prescribed method and those procedures be used as closely as possible in the current effort to reinstate the Nation of Hawai'i, and if so, why?*
4. *The Constitution for the Kingdom of Hawai'i recognized native Hawaiians and naturalized American and European people as being citizens of the Nation of Hawai'i. That same Constitution recognized those citizens as being the electors and that they could hold and exercise the powers of public offices. Is it improper to discriminate against and disenfranchise the posterity of those naturalized citizens in the current reinstatement process for the Hawaiian Nation?*
5. *Under the Montevideo Convention on the Rights and Duties of States, Article I, there are four qualifications for a State. The State must have: (1) a permanent population; (2) a defined territory; (3) a duly constituted government; and (4) the capacity to enter into relations with other States. Other than having a permanent citizenry, a defined territory, and entering into relations with other States, what are the necessary qualifications of a recognizable government?*
6. *So as not to get the cart before the horse, there are distinctions between "Constitution Making" and "Nation Building" that includes recognition by and relations with other Nations. Would you please describe the differences between Constitution Making and Nation Building and explain why and how they are interrelated?*

II. Panel Members – Session 2 – U.S. Federal Recognition.

Richard Trudell, Patty Ferguson-Bohnee and Thomas Schlosser

1. There are several statuses for recognition by the United States, including but not limited to, independent sovereign States, protectorate States, and dependent States. Would you please describe each recognition status and the qualifications that the United States uses for and applies to each status?
2. Both the Constitution for the Kingdom of Hawai'i and the Constitution for the United States of America specifically mention Law of Nations. Fundamental writers on the formation and recognition of the United States into the family of Nations specifically mention the importance of Law of Nations. Is the Law of Nations self-implementing in the United States, and if so, how is Law of Nations to be applied to the wrongful overthrow of the Nation and government of the Kingdom of Hawai'i?
3. The Kingdom of Hawai'i was a sovereign Nation, with a written Constitution and a completely functional and recognized body politic before and at the time of the wrongful overthrow. Under the admissions made in the Apology Bill, Public Law 103-150, what legal status do the descendants of the Kingdom have a right to under the United States' current recognition policy and what is the procedure for achieving that status?
4. In recent history, the United States recognized the Nations and governments of Kosovo and East Timor as being independent and sovereign Nations. What standards and processes were used by the United States for those two independent Nation recognitions and how do those standards and processes differ from those applied to Native American Indian Tribal recognition?
5. The war between the Spain and the national security of the United States was the pretext for the wrongful overthrow and annexation of the peaceful and independent Nation of Hawai'i. It is indisputable that those acts of conquest were in violation of Law of Nations. Having publicly admitted those wrongful acts, what actions and limitations are justly imposed upon the United States to right that wrong?
6. The State of Hawaii and its Office of Hawaiian Affairs (OHA) were timely created to circumvent and effectively evade international proclamations against colonization. What actions and limitations are justly imposed upon the State of Hawaii and its agencies to reinstate the Nation of Hawai'i?

Please send your responses to:

Kingdom of Hawai`i [reestablished April 15, 1994]

- 1777 Ala Moana Blvd, #142-102
- Honolulu, Hawai`i 96815-1603
- (808)-235-2425
- www.kingdom-hawaii.org
- kingdom@kingdom-hawaii.org

Your cooperation will be greatly appreciated. If you have any questions please feel free to contact us.

Mahalo (Thank you)

Done this 27th day of October, 2014 Anno Domini.

Sterling Ing, Acting Minister of Finance,
Sui Juris, Jure Soli,
Jure Sanguinis, Jure Coronea

Dennis W. Ragsdale, Advocate General,
Sui Juris, Jure Soli,
Jure Sanguinis, Jure Coronea

Henry K. J. Tripp, Acting Minister of the Interior,
Sui Juris, Jure Soli,
Jure Sanguinis, Jure Coronea

Russell Stewart, Acting Minister of Foreign Affairs,
Sui Juris, Jure Soli,
Jure Sanguinis, Jure Coronea

Native & Naturalized Hawaiians

Since the early days prior to the writing of 103-150 (107 Stat. 1510) known as the “Apology Bill” and all Federal, State, and Local legislation have been knowingly or unknowingly using defective historical and legal terms for “Native Hawaiians”, “Hawaiian People”, and so on.

In 103-150 (107 Stat. 1510) Sec. 2 Definitions it states:

As used in this Joint Resolution, the term “Native Hawaiian” means any individual who is a **descendent of the aboriginal people** who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii.

The definition above is only partially accurate, however, it is misleading and deceptive, causing the disenfranchising of the rights of the Naturalized citizens and their decedents of the Kingdom of Hawai`i. Those naturalized citizens swore an oath to a full Sovereign Nation that exercised their full Sovereign rights, duties, and obligations until the *coup d’etat* in 1893. Furthermore, the Kingdom of Hawai`i formally recognized as an independent nation in 1843 becoming a member of the “*Family of Nations*”. Therefore, all legislation after 1993 that used the aforementioned definition of “Native Hawaiian” is historically and factually defective. Continued use of this defective definition will result in the perpetuation of the loss of integrity and truthfulness in the history of Hawai`i.

The Kingdom of Hawai`i being a full Sovereign Nation had the right to determine who its subjects, and or citizens were. They provided a process for any foreigner that wished to become a citizen of the Kingdom as shown below:

Kingdom of Hawai`i had the following Laws:

SUPPLEMENT TO THE STATUTE LAWS 1848

AN ACT TO ALTER AND AMEND CERTAIN PARTS OF "THE ACT TO ORGANIZE THE EXECUTIVE DEPARTMENTS OF THE HAWAIIAN ISLANDS," RELATING TO THE NATURALIZATION OF FOREIGNERS.

Whereas, It appears both desirable and proper that foreigners of good character, coming to reside in this Kingdom, should be allowed the privilege of becoming subjects of His Majesty, after a shorter residence than two years,

And whereas, The present law relative to Naturalization is inconvenient in practice;

Therefore, Be it enacted by the Nobles and Representatives of the Hawaiian Islands, in Legislative Council assembled, that Section 10 of Article 1, of Chapter 5, of Part first, of the "Act to organize the Executive Departments of the Hawaiian Islands," shall be, and the same is hereby altered and amended, to read as follows :

SECTION X. **Any alien foreigner may, at any time, apply to the Minister of the Interior for permission to become a naturalized subject of His Majesty**, and said Minister shall have power, either in person or through his Chief Clerk, to administer the oath of allegiance to such foreigner, if satisfied that it will be for the good of the Kingdom, and that such foreigner is not of immoral character, nor a refugee from the justice of some other country, nor a deserting sailor, marine, soldier or officer, belonging thereto.

And be it further enacted, That that part of Section 11 of the same article, which follows the form of the oath of allegiance, shall be, and the same is hereby altered and amended, to read as follows:

Which oath shall always be subscribed by the foreigner so naturalized, be sworn to on the Holy Evangelists, and the *jurat* thereof subscribed by the Minister of the Interior, or his Chief Clerk ; for which services such foreigner shall pay the fees prescribed in the third part of this Act.

And be it further enacted, That this Act shall take effect and become a law of the land, on the day of its publication in the “Polynesian” newspaper.

Done and passed at the Council House, Honolulu, this 2d day of June, A. D., 1848.

KAMEHAMEHA.

KEONI ANA.

Native & Naturalized Hawaiians

In the *Constitution of 1852* for the Kingdom of Hawai`i, it states:

ART. 78. Every male subject of His Majesty, whether native or naturalized, and every denizen of the Kingdom who shall have paid his taxes, who shall have attained the full age of twenty years, and who shall have resided in the Kingdom for one year immediately preceding the time of election, shall be entitled to one vote for the representative, or representatives, of the district in which he may have resided three months next preceding the day of election; provided that no insane person, nor any person who shall at any time have been convicted of any infamous crime, within this Kingdom, unless he shall have been pardoned by the King, and by the terms of such pardon been restored to all the rights of a subject, shall be allowed to vote.

The Kingdom of Hawai`i – *Civil Code of 1858-59* also in *Compiled Laws of 1884* it states:

ARTICLE VIII.-NATURALIZATION OF FOREIGNERS.

SECTION (§) 432. Every foreigner so naturalized, shall be deemed to all intents and purposes a native of the Hawaiian Islands, be amenable only to the laws of this Kingdom, and to the authority and control thereof, be entitled to the protection of said laws, and be no longer amenable to his native sovereign while residing in this Kingdom, nor entitled to resort to his native country for protection or intervention. He shall be amenable, for every such resort, to the pains and penalties annexed to rebellion by the Criminal Code. And every foreigner so naturalized, shall be entitled to all the rights, privileges and immunities of a Hawaiian subject.

The usage of the Native Hawaiian or Hawaiian as defined in 103-150 (107 Stat. 1510) used in Federal, State and other legislation is historically and lawfully incorrect and defective, attend amount to discrimination to all those descendants of lawfully naturalized subjects of the Kingdom of Hawai`i.

Registry of Naturalized Subjects in the Hawaiian Kingdom 1840–1893 shows all the foreigners that became native subjects of the Kingdom and a Hawaiian National, and their descendants born in the Hawaiian Archipelago are Native Hawaiian.

With all the facts and evidence in the historical records of the Kingdom of Hawai`i, Hawaiian Kingdom, Government of the Sandwich Islands, as so-forth, both natural born or naturalized persons were **native Hawaiian** according to law.

All future legislation or issues should correct and reflect this longtime common error.

We also question the use of the words “occupied” and “sovereignty” in the clause below:

In 103-150 (107 Stat. 1510) Sec. 2 Definitions it states:

As used in this Joint Resolution, the term “Native Hawaiian” means any individual who is a descendent of the aboriginal people who, prior to 1778, **occupied** and exercised **sovereignty** in the area that now constitutes the State of Hawaii.

Nevertheless, that is another discussion.

Two Most Misused Terms **COLONIZATION & OCCUPATION**

COLONIZATION – First to be *colonized* you must first need to be a colony.

§210 Colonies

When a Nation takes possession of a distant country and establishes a colony there, that territory, though separated from the mother country, forms naturally a part of the State, as much so as its older possessions. Hence, whenever the public laws or treaties make no distinction between them, all regulations affecting the mother country should be extended equally to the colonies.

Law of Nations or the Principle of Natural Law, E. de Vattel, book 1, §210, page 86, (1758).

According to the above definition the Kingdom of Hawai`i, a.k.a. Hawaiian Kingdom or Government of the Hawaiian Islands was never a *colony* or *colonized* nor can the term *de-colonization* be used today in status of the *de facto* State of Hawai`i. The only colonization there is today is *self-colonization* or *self-brain washing* of oneself. Does not lawfully apply to the Government of the Hawaiian Archipelago.

OCCUPATION

There are many in the Hawaiian community that claims Hawai`i is and has been under some kind of *belligerent occupation* since January 17th, 1893.

History and legal authorities show otherwise as follows:

January 17th, 1893, after the troops of the United States of America landed on false pretenses and where the United States flag was not raised over the Kingdom of Hawai`i until about two weeks later. The United States flag and troop occupation lasted till April 1st, 1893, James Blount ordered the troops there withdrawn and the flag of the United States of America lowered...and the flag of the Kingdom of Hawai`i raised again, therefore officially ending the *occupation* on the part of the United States of America nor was America ever officially at war with the lawful government of the Hawaiian Islands.

The other instance that *occupation* is wrongly used is during the *Spanish—American War 1898* since the Spanish or American Governments never declared war on the Kingdom of Hawai`i which was already *usurped* by the Provisional Government then Republic of Hawaii, also not at war with the Spanish or American Governments. That the Republic of Hawaii invited the Government of the United States into Hawaii.

The term “**Occupation**” cannot be used within the pretext of Law of Nations, International Law, Laws of War, and so forth since none of the conditions required above was never met.

Military occupation and the laws of war

There have long been customary laws of belligerent occupation as part of the [laws of war](#) which gave some protection to the population under the military occupation of a belligerent power. These were clarified and supplemented by the [Hague Conventions of 1907](#). Specifically "Laws and Customs of War on Land" (Hague IV); October 18, 1907: "Section III Military Authority over the territory of the hostile State."^[1] The first two articles of that section state:

Art. 42.

Territory is considered occupied when it is actually placed under the authority of the hostile army.

The occupation extends only to the territory where such authority has been established and can be exercised.

Art. 43.

The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all the measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.

In 1949 these laws governing belligerent occupation of an enemy state's territory were further extended by the adoption of the [Fourth Geneva Convention](#) (GCIV). Much of GCIV is relevant to protected persons in occupied territories and [Section III: Occupied territories](#) is a specific section covering the issue.

[Article 6](#) restricts the length of time that most of GCIV applies:

The present Convention shall apply from the outset of any conflict or occupation mentioned in Article 2.

In the territory of Parties to the conflict, the application of the present Convention shall cease on the general close of military operations.

In the case of occupied territory, the application of the present Convention shall cease one year after the general close of military operations; however, the Occupying Power shall be bound, for the duration of the occupation, to the extent that such Power exercises the functions of government in such territory, by the provisions of the following Articles of the present Convention: 1 to 12, 27, 29 to 34, 47, 49, 51, 52, 53, 59, 61 to 77, 143.

GCIV emphasised an important change in international law. The [United Nations Charter](#) ([June 26, 1945](#)) had prohibited war of aggression (See articles 1.1, 2.3, 2.4) and GCIV [Article 47](#), the first paragraph in [Section III: Occupied territories](#), restricted the territorial gains which could be made through war by stating:

Protected persons who are in occupied territory shall not be deprived, in any case or in any manner whatsoever, of the benefits of the present Convention by any change introduced, as the result of the occupation of a territory, into the institutions or government of the said territory, nor by any agreement concluded between the authorities of the occupied territories and the Occupying Power, nor by any annexation by the latter of the whole or part of the occupied territory.

[Article 49](#) prohibits the forced mass movement of people out of or into occupied state's territory:

Individual or mass forcible transfers, as well as deportations of protected persons from occupied territory to the territory of the Occupying Power or to that of any other country, occupied or not, are prohibited, regardless of their motive. ... The Occupying Power shall not deport or transfer parts of its own civilian population into the territory it occupies.

[Protocol I](#) (1977): "Protocol Additional to the [Geneva Conventions](#) of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts" has additional articles which cover military occupation but many countries including the [U.S.](#) are not signatory to this additional protocol.

In the situation of a territorial cession as the result of war, the specification of a "receiving country" in the peace treaty merely means that the country in question is authorized by the international community to establish civil government in the territory. The military government of the principal occupying power will continue past the point in time when the peace treaty comes into force, until it is legally supplanted.

"Military government continues until legally supplanted" is the rule, as stated in *Military Government and Martial Law*, by William E. Birkhimer, 3rd edition 1914.