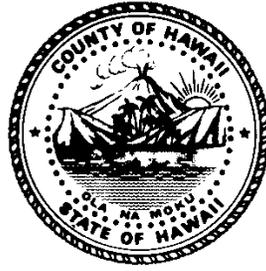


JEN RUGGLES
Council Member
District 5 – Puna Mauka,
Pahoa Mauka, Kalapana



Public Works & Parks and Recreation
Committee Chair
Public Safety & Mass Transit
Committee Chair

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Hawai'i County Building
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HAWAI'I COUNTY COUNCIL

September 23, 2018

The Honorable Judge James H. Ashford
The Honorable Judge Bert I. Ayabe
The Honorable Judge R. Mark Browning
The Honorable Judge Jeannette Castagnetti
The Honorable Judge Gary W.B. Chang
The Honorable Judge Jeffrey P. Crabtree
The Honorable Judge Virginia L. Crandall
The Honorable Judge Todd W. Eddins
The Honorable Judge Colette Y. Garibaldi
The Honorable Judge Keith K. Hiraoka
The Honorable Judge Shirley M. Kawamura
The Honorable Judge Glenn J. Kim
The Honorable Judge Edward H. Kubo, Jr.
The Honorable Judge Christine E. Kuriyama
The Honorable Judge Edwin C. Nacino
The Honorable Judge Karen T. Nakasone
The Honorable Judge Dean E. Ochiai
The Honorable Judge Rowena Somerville
The Honorable Judge Fa'auuga L. To'oto'o
The Honorable Judge Rom A. Trader
The Honorable Judge Matthew J. Viola
The Honorable Judge Paul B.K. Wong
First Circuit Court
Ka'ahumanu Hale
777 Punchbowl Street
Honolulu, HI 96813-5093

The Honorable Judge Richard T. Bissen, Jr.
The Honorable Judge Peter T. Cahill
The Honorable Judge Joseph E. Cardoza
The Honorable Judge Rhonda I.L. Loo
Second Circuit Court
Hoapili Hale
2145 Main Street, Suite 106
Wailuku, HI 96793-1679

The Honorable Judge Greg Nakamura
The Honorable Judge Henry T. Nakamoto
The Honorable Judge Robert D.S. Kim
The Honorable Judge Melvin Fujino
Third Circuit Court
Hale Kaulike
777 Kilauea Avenue
Hilo, Hawai‘i 96720-4212

The Honorable Judge Randal G.B. Valenciano
The Honorable Judge Kathleen N.A. Watanabe
Fifth Circuit Court
Pu‘uhonua Kaulike Building
3970 Ka‘ana Street
Lihu‘e, Hawai‘i 96766

Re: War crimes committed against Protected Persons by State of Hawai‘i Courts

Dear Judge Ashford:

I am an elected public official of the Hawai‘i County Council serving District 5—Western Puna, in the State of Hawai‘i. To my dismay as a public official, I have become aware of Hawai‘i’s status as a nation-state under international law that has been under an illegal occupation by the United States since, by its own admission, its illegal overthrow of the Hawaiian Kingdom government on January 17, 1893. I did my due diligence to become educated on this subject and I have reached out to experts in this field. I’ve learned that after a presidential investigation was completed on October 18, 1893, President Grover Cleveland notified the U.S. Congress two months later stating that by:

an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair.¹

By initiating a state of war between itself and the Hawaiian Kingdom, under international law, the United States was bound by the international laws of occupation, which were later codified under the 1907 Hague Convention, IV (“HCIV”), and the 1949 Geneva Convention, IV (“GCIV”).² The United States Senate ratified both the HCIV and the GCIV making their terms part of U.S. law. Violations of these conventions are war crimes as that term is defined by 18 U.S.C. §2441. Article 154 of the GCIV clearly states that the convention is supplemental to the HCIV. According to Amnesty International, war crimes are “crimes that violate the laws and customs of war defined by the Geneva and Hague Conventions.”

Larsen v. Hawaiian Kingdom at the Permanent Court of Arbitration

The imposition of United States laws is a violation of Article 43 of the HCIV and Article 64 of the GCIV, which mandate the United States—the occupying State—to administer the laws of the Hawaiian Kingdom—the occupied State. The U.S. failure to administer Hawaiian Kingdom law led to an unfair trial and unlawful confinement of an aboriginal Hawaiian subject, named Lance Larsen, by the State of Hawai‘i. This led to a dispute between Larsen and the Hawaiian Kingdom government, which was restored in 1995, in which Larsen alleged that the Hawaiian government is liable for allowing the unlawful imposition of American laws over Hawaiian territory that led to his rights being violated by the United States through the State of Hawai‘i.

The dispute was accepted by the Permanent Court of Arbitration (“PCA”), The Hague, Netherlands, on November 8, 1999 as *Lance Paul Larsen v. Hawaiian Kingdom* and assigned as PCA Case no. 1999-01. The Secretariat of the PCA acknowledged both the continuity of the Hawaiian Kingdom as a State under international law, and the existence of a restored Hawaiian government, by its Council of Regency, as its organ.³ In the *American Journal of International Law*, Bederman and Hilbert reported:

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.⁴

After pleadings were filed and oral hearings held at the PCA, the Tribunal concluded that the United States was a necessary party whose presence was required for Mr. Larsen to maintain his suit against the Hawaiian government. Without the participation of the United States, the Tribunal was prevented from concluding that the occupying State violated Mr. Larsen’s rights because the U.S. wasn’t present to answer to

¹ President Cleveland’s Message to Congress (Dec. 18, 1893), available at: [http://hawaiiankingdom.org/pdf/Cleveland's_Message_\(12.18.1893\).pdf](http://hawaiiankingdom.org/pdf/Cleveland's_Message_(12.18.1893).pdf).

² For information regarding the state of war between the Hawaiian Kingdom and the United States see David Keanu Sai, *The Larsen v. Hawaiian Kingdom Case at the Permanent Court of Arbitration and Why There Is An Ongoing Illegal State of War with the United States of America Since 16 January 1893* (16 Oct. 2017), hereafter “*Illegal State of War*,” available at: http://hawaiiankingdom.org/pdf/Illegal_War_Brief_English.pdf.

³ *Id.*, p. 2-3.

⁴ David Bederman & Kurt Hilbert, “Arbitration—UNCITRAL Rules—justiciability and indispensable third parties—legal status of Hawaii,” 95 *American Journal of International Law* (2001), p. 928.

the allegations. The United States' absence, which it declined an invitation to join in the arbitration, caused the Tribunal to recommend that Larsen and the Hawaiian government could form an international fact-finding commission of inquiry under PCA jurisdiction.⁵ International commissions of inquiry serve a purpose similar to grand juries. In the Larsen case, the commission of inquiry will be looking into what entities and persons are responsible for the war crimes committed against Mr. Larsen.

United Nations Independent Expert—Dr. Alfred M. deZayas

On February 25, 2018, a United Nations Independent Expert, Dr. Alfred M. deZayas, of the Office of the High Commissioner for Human Rights in Geneva, Switzerland, sent a communication to the members of the State of Hawai'i Judiciary calling upon the United States and the State of Hawai'i to comply with the HCIV and GCIV. He wrote:

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).

Independent Experts, who are also known as Special Rapporteurs, receive information on allegations of human rights violations and communicate with governments to address the violations. The function of this particular Independent Expert is to hold the United States and the State of Hawai'i accountable for the violations of the HCIV and the GCIV. The Independent Expert's communication to the State of Hawai'i is an accurate statement of the law and describes the legal obligations of the United States, including the State of Hawai'i, to comply with the provisions of the HCIV and the GCIV as a Contracting Power.

Fraudulent Annexation Does Not Preclude the Application of the
Hague and Geneva Conventions

A mistaken belief that the annexation of Hawai'i in 1898 by a joint resolution of Congress makes the HCIV and GCIV inapplicable is corrected by a reading of Article 47 of the GCIV. It is titled "Inviolability of Rights," and states:

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.

⁵ Illegal State of War, p. 3-4.

Although the term ‘annexation’ appears in the article, neither the GCIV nor customary international law recognizes annexation as lawful if it takes place in the absence of a treaty of peace. According to the International Committee of the Red Cross (“ICRC”) Commentary on the GCVI, “It will be well to note that the reference to annexation in this Article cannot be considered as implying recognition of this manner of acquiring sovereignty.”⁶ The “Occupying Power cannot therefore annex the occupied territory, even if it occupies the whole of the territory concerned. A decision on that point can only be reached in the peace treaty. That is a universally recognized rule which is endorsed by jurists and confirmed by numerous rulings of international and national courts.”⁷ There is no peace treaty between the Hawaiian Kingdom and the United States. As to the ICRC’s commentary on the GCIV, the United States Supreme Court in *Hamdan v. Rumsfeld*, 548 U.S. 557 (2006), acknowledged that the ICRC commentary is authoritative as to the interpretation of the articles of the Geneva Conventions.

Protected Persons

Under Article 4 of the GCIV, protected persons are defined as civilians who find themselves in the hands of a party to the conflict of which they are not nationals. By this definition protected persons are nationals of the Hawaiian Kingdom and all nationals of foreign States who find themselves under the control of the United States in Hawai‘i. It did not, at the time of its codification, include United States citizens. However, this definition was expanded to include nationals of the occupying State by the Appeals Chamber of the International Criminal Court for the Former Yugoslavia decision in the *Tadic* case in its 1999 judgment.⁸ The Appeals Chamber’s rationale was that “protected person” status does not exclude those having the nationality of the occupying State, but rather the “allegiance” the person has as to the territory upon which they are situated.

Since 1999, international criminal law acknowledges citizens of the United States who are within the territory of the Hawaiian Kingdom are protected persons. This is due to the allegiance they owe to the Hawaiian Kingdom by reason of their presence in Hawaiian territory even when their country, the United States, is at war with the Hawaiian Kingdom. Under Chapter VI of the Hawaiian Penal Code, it states “Allegiance is the obedience and fidelity due to the kingdom from those under its protection. ... An alien, whether his native country be at war or at peace with this kingdom, owes allegiance to this kingdom during his residence therein.”⁹ While the Hawaiian Kingdom is unable to protect those under its protection as a result of occupation, international law mandates the United States, as the occupying State, to serve as the temporary protector of their rights. According to the ICRC, “Whether a war is ‘just’ or ‘unjust’, whether it is a war of aggression or of resistance to aggression, whether the intention is to merely occupy territory or to annex it, in no way affects the treatment protected persons should receive.”¹⁰

⁶ International Committee of Red Cross, Commentary: IV Geneva Convention Relative to the Protection of Civilian Persons in Time of War (1958), hereafter “ICRC Commentary,” p. 276.

⁷ *Id.*, p. 275.

⁸ ICTY, *Tadic case*, Case No. IT-94-1-A, Judgment, Appeals Chamber, 15 July 1999, para. 168 and 169, available at <http://www.icty.org/x/cases/tadic/acjug/en/tad-aj990715e.pdf>.

⁹ Hawaiian Penal Code, sections 2 & 3, Chapter VI—Treason, available at http://hawaiiankingdom.org/penalcode/pdf/Penal_Code.pdf.

¹⁰ *Id.*, p. 16-17.

Concern Over Incurring Criminal Liability for War Crimes

As a public official of the State of Hawai‘i, I am an “agent” of the United States as defined under Article 29 of the GCIV. As such, I have incurred responsibility to “take the greatest pains to ensure that the State services in contact with the protected persons are in actual fact capable of applying the provisions of the Convention.”¹¹ I am also bound “to respect and ‘ensure respect for’ the Convention in all circumstances”¹² by every and all agents of the United States as the occupying State.

My first order of business as an agent was to inquire of Hawai‘i County Corporation Counsel, legal counsel for the Council, Mr. Joe Kamelamela, as to whether I have incurred criminal liability for legislating United States law as a Council member in violation of Article 43 of the HCIV and Article 64 of the GCIV. To do this I retained legal counsel and a letter was sent to Mr. Kamelamela on August 21, 2018.¹³ The following day Mr. Kamelamela wrote me an unacceptable opinion by stating that I “will not incur any criminal liability under state, federal and international law.”¹⁴

Going Public as a Whistle Blower

The Corporation Counsel’s failure to provide either an explanation, rationale, or basis for his one sentence conclusion, prompted my attorney to send him a follow up letter dated August 28, 2018.¹⁵ When Corporation Counsel gave me his unqualified opinion that I will not be incurring criminal liability, he did not dispute either Hawai‘i’s occupation or the commission of war crimes against protected persons. He, in effect, conceded that the Hawaiian Islands is under an American occupation. The evidence my attorney provided Corporation Counsel included Dr. deZayas’s letter to the State of Hawai‘i judiciary of February 25, 2018. Corporation Counsel Kamelamela left me no choice but to be a whistle blower and to inform the public that the United States government and the State of Hawai‘i have, and continue to be, engaged in illicit activity by violating provisions of the HCIV and the GCIV.

According to the ICRC, “the Hague Regulations [HCIV] is not applicable only to the inhabitants of the occupied territory; it also protects the separate existence of the State, its institutions, and its laws. This provision does not become in any way less valid because of the existence of the new [GCIV], which merely amplifies it so far as the question of the protection of civilians is concerned.”¹⁶ “The expression ‘laws in force in the country’ in Article 43,” explains Sassoli, “refers not only to laws in the strict sense of the word, but also to the constitution, decrees, ordinances, court precedents, as well as administrative regulations and executive orders.”¹⁷ I understand this phrase to mean the entire legal order of the Hawaiian Kingdom.

¹¹ *Id.*, p. 210.

¹² *Id.*

¹³ Council member Jennifer Ruggles Inquiry Regarding Allegations of War Crimes and Criminal Liability (Aug. 21, 2018), available at: <https://jenruggles.com/wp-content/uploads/Stephen-Laudigs-Letter-to-Corporation-Counsel-8-21-18.pdf>.

¹⁴ Corporation Counsel Joe Kamelamela’s Response to Council member Ruggles Inquiry (Aug. 22, 2018), available at: <https://jenruggles.com/wp-content/uploads/Kamelamela-Response-Letter-2018-08-22.pdf>.

¹⁵ Council member Jennifer Ruggles Response to Corporation Counsel Kamelamela’s opinion (Aug. 28, 2018), available at: https://jenruggles.com/wp-content/uploads/Laudig_Ltr_to_Corp_Counsel_8.28.2018-.pdf.

¹⁶ ICRC Commentary, Article 47, p. 273

¹⁷ Marco Sassoli, *Article 43 of the Hague Regulations and Peace Operations in the Twenty-first Century*, Background Paper prepared for Informal High-Level Expert Meeting on Current Challenges to International Humanitarian Law, Cambridge, June 25-27, 2004, p. 6.

Oath of Office

When I took my oath of office I swore to uphold and defend the constitutions of the United States and the State of Hawai'i. My oath did not obligate me to enact legislation which would violate the federal constitution. It obligated me to uphold the federal constitution. Article VI, paragraph 2 of the U.S. Constitution, commonly referred to as the Supremacy Clause establishes that the federal constitution takes precedence over the State of Hawai'i constitution and laws. It states:

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding.

The HCVI and the GCIV are treaties made under the authority of the United States. Corporation Counsel Kamelamela did not dispute the evidence I provided him, through my attorney, of Hawai'i's occupation and the application of the HCIV and the GCIV and the protection afforded protected persons under the GCIV. Therefore, as I swore to uphold the federal constitution, I am bound to uphold the HCIV and the GCIV and ensure respect for the conventions in all circumstances as they apply throughout the territory of the Hawaiian Kingdom.

Conveyance of Real Property under Hawaiian Kingdom law

Private ownership interests in real estate in the Hawaiian Kingdom began in 1845 with fee-simple, life estates, leasehold properties, and mortgages being recorded in the Bureau of Conveyances. The Bureau of Conveyances served as the public registry and was established by joint resolution approving the *Second Act of Kamehameha III entitled An Act to Organize the Executive Departments of the Hawaiian Islands* (April 27, 1846). §1255 of the Hawaiian Civil Code provides:

To entitle any conveyance, or other instrument to be recorded, it shall be acknowledged by the party or parties executing the same, before the Registrar of Conveyances, or his agent, or some judge of a court of record, or notary public of this Kingdom, or before some minister, commissioner or consul of the Hawaiian Islands, or some notary public or judge of a court of record in any foreign country.

Under Section 5 of an *Act Requiring the Identification of Persons offering Acknowledgments to Instruments* (1872), "No certificate of acknowledgment contrary to the provisions of this Act shall be held valid in any court of this Kingdom, nor shall it be entitled to be recorded in the Registry of Public Conveyances." After the United States illegally overthrew the Hawaiian Kingdom government on January 17, 1893, real property was incapable of being conveyed or mortgaged as liens to secure loans. President Cleveland in his message to the Congress referred to members of the so-called provisional government as "insurgents." He stated the Queen,

had possession of the palace, of the barracks, and of the police station, and had at her command at least five hundred fully armed men and several pieces of artillery. Indeed, the whole military force of her kingdom was on her side... In this state of things if the Queen could have dealt with

the insurgents alone her course would be plain and the result unmistakable. But the United States had allied itself with her enemies, had recognized them as the true Government of Hawaii, and had put her and her adherents in the position of opposition against lawful authority. She knew that she could not withstand the power of the United States, but she believed that she might safely trust to its justice.¹⁸

The insurgency was not a government but rather a puppet of the United States, and, therefore, real property could not be conveyed or mortgaged after January 17, 1893. The imposition of United States laws since the fraudulent annexation in 1898 did not alter this situation.

All Titles to Real Property and Mortgages in the Hawaiian Islands are Defective

Before lenders loan money they require the borrower to mortgage their real estate as collateral to secure the repayment of the loan. But before the lender accepts the mortgaged property as collateral, the lender requires the borrower to also purchase a loan title insurance policy for the protection of the lender that covers the full debt owed under the promissory note.

Escrow companies provide the service of doing a title search on the proposed mortgage property in order to ensure that the borrower has clear title to mortgage. If the title search finds no defects in the title, a title insurance company will underwrite the title report and provide insurance coverage to the lender for the amount borrowed. Black's Law dictionary defines title insurance as a "policy issued by a title company after searching the title, representing the state of that title and insuring the accuracy of its search against claims of title defects."¹⁹ As an indemnity contract, the insurance policy does not guarantee the state of the title but covers loss incurred from a defect in title that would arise from an inaccurate title report.

According to the American Land Title Association, the following are covered risks for an insurance claim of a defect in title and/or mortgage, which include:

- (i) forgery, fraud, undue influence, duress, incompetency, incapacity, or impersonation;
- (ii) failure of any person or Entity to have authorized a transfer or conveyance;
- (iii) a document affecting title not properly created, executed, witnessed, sealed, acknowledged, notarized, or delivered;
- (iv) failure to perform those acts necessary to create a document by electronic means authorized by law;
- (v) a document executed under a falsified, expired, or otherwise invalid power of attorney;
- (vi) a document not properly filed, recorded, or indexed in the Public Records including failure to perform those acts by electronic means authorized by law;
or
- (vii) a defective judicial or administrative proceeding.²⁰

¹⁸ Cleveland's Message, p. 453.

¹⁹ Black's Law Dictionary (1990), p. 806.

²⁰ See American Land Title Association's *Title Insurance: A Comprehensive Overview*, available at <https://www.alta.org/press/TitleInsuranceOverview.pdf>.

The aforementioned coverages apply to all land titles in the Hawaiian Islands due to the failure to administer Hawaiian Kingdom law according to the HCIV and GCIV. As covered risks, the lenders are protected regarding the debts owed to them by the borrowers, and the borrowers are protected if they purchased an owner's title insurance policy. Section 1109 of the HUD-1 statement of closing costs at escrow would disclose the borrower's purchase of a loan title insurance policy, and section 1110 would disclose the purchase of an owner's title insurance policy.

Plundering Private Property

Article 46 of the HCIV provides, "Private property cannot be confiscated." Article 47 of the GCIV provides, "Pillage is formally forbidden." To plunder is to pillage. Black's Law dictionary defines plunder as to "pillage or loot. To take property from persons or places by open force, and this may be in course of war... The term is also used to express the idea of taking property from a person or place, without just right."²¹ According to the United Nations Independent Expert there is an:

ongoing plundering of the Hawaiians' land, particularly of those heirs and descendants with land titles that originate from the distributions of lands under the authority of the Hawaiian Kingdom. Pursuant to the U.S. Supreme Court judgment in the Paquete Habana Case (1900), U.S. courts have to take international law and customary international law into account in property disputes. The state of Hawaii courts should not lend themselves to a flagrant violation of the rights of the land title holders and in consequence of pertinent international norms. Therefore, the courts of the State of Hawaii must not enable or collude in the wrongful taking of private lands, bearing in mind that the right to property is recognized not only in U.S. law but also in Article 17 of the Universal Declaration of Human Rights, adopted under the leadership of Eleanor Roosevelt.

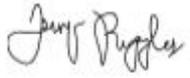
The 'wrongful taking of private lands' by lenders, through the circuit courts of the State of Hawai'i under foreclosure proceedings, is the war crime of pillaging. The courts are complicit in the war crime by enabling and colluding 'in the wrongful taking of private lands.' "Conspiracy...as well as complicity in the commission of...war crimes are punishable."²² As an agent for the United States I am bound 'to ensure respect for the Convention in all circumstances,' and, therefore, call upon you to cease and desist 'in the wrongful taking of private lands' from protected persons that are under foreclosure. The lender is protected under the loan title insurance policy that was purchased by the borrower as a condition of the loan. As such, there is no reason to have any foreclosure proceedings in the first place because the defects in titles have rendered all mortgage liens invalid.

This letter serves as knowledge and "awareness of the factual circumstances that established the existence of an armed conflict" between the Hawaiian Kingdom and the United States, the application of the HCIV and GCIV, and the protection afforded to protected persons.

²¹ Black's Law, p. 1154.

²² U.S. Army Field Manual 27-10, section 500—Conspiracy, Incitement, Attempts, and Complicity.

Sincerely,



Jennifer Ruggles

Hawai'i County Council Member

enclosures

cc: Office of the Prosecutor, International Criminal Court
President, Human Rights Council
United Nations Independent Expert for the Promotion of a Democratic and Equitable
International Order
International Committee of the Red Cross
Amnesty International
Human Rights Watch



Larsen v. Hawaiian Kingdom

Case name	Larsen v. Hawaiian Kingdom
Case description	<p>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.</p> <p>In determining whether to accept or decline to exercise jurisdiction, the Tribunal considered the questions of whether there was a legal dispute between the parties to the proceeding, and whether the tribunal could make a decision regarding that dispute, if the very subject matter of the decision would be the rights or obligations of a State not party to the proceedings.</p> <p>The Tribunal underlined the many points of agreement between the parties, particularly with respect to the propositions that Hawaii was never lawfully incorporated into the United States, and that it continued to exist as a matter of international law. The Tribunal noted that if there existed a dispute, it concerned whether the respondent has fulfilled what both parties maintain is its duty to protect the Claimant, not in the abstract but against the acts of the United States of America as the occupant of the Hawaiian islands. Moreover, the United States’ actions would not give rise to a duty of protection in international law unless they were themselves unlawful in international law. The Tribunal concluded that it could not determine whether the Respondent has failed to discharge its obligations towards the Claimant without ruling on the legality of the acts of the United States of America – something the Tribunal was precluded from doing as the United States was not party to the case.</p>
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)
Case status	Concluded
Type of case	Other proceedings
Subject matter or economic sector	Treaty interpretation
Rules used in arbitral proceedings	UNCITRAL Arbitration Rules 1976
Treaty or contract under which proceedings were commenced	Other The 1849 Treaty of Friendship, Commerce and Navigation with the United States of America
Language of proceeding	English
Seat of arbitration (by country)	Netherlands
Arbitrator(s)	Dr. Gavan Griffith QC Professor Christopher J. Greenwood QC Professor James Crawford SC (President of the Tribunal)
Representatives of the claimant(s)	Ms. Ninia Parks, Counsel and Agent
Representatives of the respondent(s)	Mr. David Keanu Sai, Agent

Mr. Peter Umialiloa Sai, First deputy agent
Mr. Gary Victor Dubin, Second deputy agent and counsel

Representatives of the parties

Number of arbitrators in case 3

Date of commencement of proceeding [dd-mm-yyyy] 08-11-1999

Date of issue of final award [dd-mm-yyyy] 05-02-2001

Length of proceedings 1-2 years

Additional notes

Attachments **Award or other decision**

> [Arbitral Award](#) 15-05-2014 English

Other

> [Annex 1 - President Cleveland's Message to the Senate and the House of Representatives](#) 18-12-1893 English

> [Joint Resolution - To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to the native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii.](#) 23-11-1993 English





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

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).

Based on that understanding, in paragraph 69(n) of my 2013 report (A/68/284) to the United Nations General Assembly I recommended that the people of the Hawaiian Islands — and other peoples and nations in similar situations — be provided access to UN procedures and mechanisms in order to exercise their rights protected under international law. The adjudication of land transactions in the Hawaiian Islands would likewise be a matter of Hawaiian Kingdom law and international law, not domestic U.S. law.

I have reviewed the complaint submitted in 2017 by Mme Routh Bolomet to the United Nations Office of the High Commissioner for Human Rights, pointing out historical and ongoing plundering of the Hawaiians' lands, particularly of those heirs and descendants with land titles that originate from the distributions of lands under the authority of the Hawaiian Kingdom. Pursuant to the U.S. Supreme Court judgment in the *Paquete Habana* Case (1900),

U.S. courts have to take international law and customary international law into account in property disputes. The state of Hawaii courts should not lend themselves to a flagrant violation of the rights of the land title holders and in consequence of pertinent international norms. Therefore, the courts of the State of Hawaii must not enable or collude in the wrongful taking of private lands, bearing in mind that the right to property is recognized not only in U.S. law but also in Article 17 of the Universal Declaration of Human Rights, adopted under the leadership of Eleanor Roosevelt.

Respectfully,



Dr. Alfred M. deZayas
United Nations Independent Expert on the promotion of a
democratic and equitable international order
Office of the High Commissioner for Human Rights
Palais des Nations, CH-1211 Geneva 10, Switzerland