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ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge the receipt of the following documents from the Ambassador-at-large for the Hawaiian Kingdom deposited with the President of the United Nations General Assembly pursuant to Article 35(2) of the United Nations Charter:

1. Protest and Demand dated 9 August 2012; and
2. CD of PDF files of Annexes to the Protest and Demand.

Hanifa MEZOUI
(Signature)

10 August 2012
(Date)

Hanifa Mezoui, PhD
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ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge the receipt of the followingdocuments from the Ambassador-at-large for the Hawaiian Kingdomdeposited with the Executive Secretary of the Group of 77 at the United Nations:

1. Protest and Demand dated 9 August 2012 deposited with the President of the United Nations General Assembly pursuant to Article 35(2) of the United Nations Charter; and
2. CD of PDF files of Annexes to the Protest and Demand.

PIERRE FORIEN

(Signature)

08/10/2012

(Date)

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ACKNOWLEDGMENT OF RECEIPT

I hereby acknowledge the receipt of the followingdocuments from the Ambassador-at-large for the Hawaiian Kingdomdeposited with the Executive Secretary of the Council of Presidentsof the United Nations:

1. Protest and Demand dated 9 August 2012 deposited with the President of the United Nations General Assembly pursuant to Article 35(2) of the United Nations Charter; and
2. CD of PDF files of Annexes to the Protest and Demand.

(Signature)

10/08/12
(Date)

PROTEST and DEMAND

BY

THE HAWAIIAN KINGDOM

FOR SERIOUS BREACHES OF OBLIGATIONS UNDER PEREMPTORY NORMS OF GENERAL INTERNATIONAL LAW COMMITTED BY:

THE UNITED STATES OF AMERICA,

AND INTERNATIONALLY WRONGFUL ACTS COMMITTED BY:

AFGHANISTAN, ALGERIA, ANGOLA, ANTIGUA AND BARBUDA, ARGENTINA, ARMENIA, AUSTRALIA, AUSTRIA, AZERBAIJAN, BAHAMAS, BAHRAIN, BANGLADESH, BARBADOS, BELARUS, BELGIUM, BELIZE, BENIN, BHUTAN, BOLIVIA (PLURINATIONAL STATE OF), BOTSWANA, BRAZIL, BRUNEI DARUSSALAM, BULGARIA, BURKINA FASO, BURUNDI, CAPE VERDE, CENTRAL AFRICAN REPUBLIC, CHAD, CHILE, COLOMBIA, COMOROS, CONGO, COSTA RICA, COTE D'IVOIRE, CUBA, CYPRUS, CZECH REPUBLIC, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, DEMOCRATIC REPUBLIC OF THE CONGO, DENMARK, DJIBOUTI, DOMINICA, DOMINICAN REPUBLIC, ECUADOR, EGYPT, EL

SALVADOR, EQUATORIAL GUINEA, FIJI, FINLAND, FRANCE, GABON, GAMBIA, GEORGIA, GERMANY, GHANA, GREECE, GRENADA, GUATEMALA, GUINEA, GUINEA-BISSAU, GUYANA, HAITI, HONDURAS, HUNGARY, ICELAND, INDIA, INDONESIA, IRAN (ISLAMIC REPUBLIC OF), IRAQ, IRELAND, ITALY, JAMAICA, JAPAN, JORDAN, KAZAKHSTAN, KENYA, KIRIBATI, KUWAIT, KYRGYZSTAN, LAO PEOPLE'S DEMOCRATIC REPUBLIC, LATVIA, LEBANON, LESOTHO, LIBERIA, LIBYA, LITHUANIA, LUXEMBOURG, MADAGASCAR, MALAWI, MALAYSIA, MALDIVES, MALI, MALTA, MARSHALL ISLANDS, MAURITANIA, MAURITIUS, MEXICO, MICRONESIA (FEDERATED STATES OF), MONTENEGRO, MOROCCO, MOZAMBIQUE, MYANMAR, NAMIBIA, NAURU, NETHERLANDS, NEW ZEALAND, NICARAGUA, NIGER, NIGERIA, NORWAY, PAKISTAN, PALAU, PAPUA NEW GUINEA, PARAGUAY, PERU, PHILIPPINES, POLAND, PORTUGAL, QATAR, REPUBLIC OF CAMEROON, REPUBLIC OF KOREA, REPUBLIC OF MOLDOVA, ROMANIA, RUSSIAN FEDERATION, RWANDA, SAINT KITTS AND NEVIS, SAINT LUCIA, SAINT VINCENT AND THE GRENADINES, SAMOA, SAN MARINO, SAO TOME AND PRINCIPE, SENEGAL, SERBIA, SEYCHELLES, SIERRA LEONE, SINGAPORE, SLOVAKIA, SLOVENIA, SOLOMON ISLANDS, SOMALIA, SOUTH SUDAN, SOUTH AFRICA, SPAIN, SRI LANKA, SUDAN, SURINAME, SWAZILAND, SWEDEN, SWITZERLAND, SYRIAN ARAB REPUBLIC, TAJIKISTAN, THAILAND, TIMOR-LESTE, TOGO, TONGA, TRINIDAD AND TOBAGO, TUNISIA, TURKEY, TURKMENISTAN, TUVALU, UGANDA, UKRAINE, UNITED ARAB EMIRATES, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED REPUBLIC OF TANZANIA, URUGUAY, UZBEKISTAN, VANUATU, VENEZUELA (BOLIVARIAN REPUBLIC OF), VIET NAM, ZAMBIA, AND ZIMBABWE

PROTEST and DEMAND

9 August 2012

BY: THE HAWAIIAN KINGDOM,

which appoints as Agent for purposes of this Protest and Demand His Excellency Dr. David Keanu Sai, Ph.D., its Ambassador-at-large.

AGAINST: One hundred seventy-three (173) member States of the United Nations, being the UNITED STATES OF AMERICA, AFGHANISTAN, ALGERIA, ANGOLA, ANTIGUA AND BARBUDA, ARGENTINA, ARMENIA, AUSTRALIA, AUSTRIA, AZERBAIJAN, BAHAMAS, BAHRAIN, BANGLADESH, BARBADOS, BELARUS, BELGIUM, BELIZE, BENIN, BHUTAN, BOLIVIA (PLURINATIONAL STATE OF), BOTSWANA, BRAZIL, BRUNEI DARUSSALAM, BULGARIA, BURKINA FASO, BURUNDI, CAPE VERDE, CENTRAL AFRICAN REPUBLIC, CHAD, CHILE, COLOMBIA, COMOROS, CONGO, COSTA RICA, COTE D'IVOIRE, CUBA, CYPRUS, CZECH REPUBLIC, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, DEMOCRATIC REPUBLIC OF THE CONGO, DENMARK, DJIBOUTI, DOMINICA, DOMINICAN REPUBLIC, ECUADOR, EGYPT, EL SALVADOR, EQUATORIAL GUINEA, FIJI, FINLAND, FRANCE, GABON, GAMBIA, GEORGIA, GERMANY, GHANA, GREECE, GRENADA, GUATEMALA, GUINEA, GUINEA-BISSAU, GUYANA, HAITI, HONDURAS, HUNGARY, ICELAND, INDIA, INDONESIA, IRAN (ISLAMIC REPUBLIC OF), IRAQ, IRELAND, IRAQ, ITALY, JAMAICA, JAPAN, JORDAN, KAZAKHSTAN, KENYA, KIRIBATI, KUWAIT, KYRGYZSTAN, LAO PEOPLE'S DEMOCRATIC REPUBLIC, LATVIA, LEBANON, LESOTHO, LIBERIA, LIBYA, LITHUANIA, LUXEMBOURG, MADAGASCAR, MALAWI, MALAYSIA, MALDIVES, MALI, MALTA, MARSHALL ISLANDS, MAURITANIA, MAURITIUS, MEXICO, MICRONESIA (FEDERATED STATES OF), MONTENEGRO, MOROCCO, MOZAMBIQUE, MYANMAR, NAMIBIA, NAURU, NETHERLANDS, NEW ZEALAND, NICARAGUA, NIGER, NIGERIA, NORWAY, PAKISTAN, PALAU, PAPUA NEW GUINEA, PARAGUAY, PERU, PHILIPPINES, POLAND, PORTUGAL, QATAR, REPUBLIC OF CAMEROON, REPUBLIC OF KOREA, REPUBLIC OF MOLDOVA, ROMANIA, RUSSIAN FEDERATION, RWANDA, SAINT KITTS AND NEVIS, SAINT LUCIA, SAINT VINCENT AND THE GRENADINES, SAMOA, SAN MARINO, SAO TOME AND PRINCIPE, SENEGAL, SERBIA, SEYCHELLES, SIERRA LEONE, SINGAPORE, SLOVAKIA, SLOVENIA, SOLOMON ISLANDS, SOMALIA, SOUTH SUDAN, SOUTH AFRICA, SPAIN, SRI LANKA, SUDAN, SURINAME, SWAZILAND, SWEDEN, SWITZERLAND, SYRIAN ARAB REPUBLIC, TAJIKISTAN, THAILAND, TIMOR-LESTE, TOGO, TONGA, TRINIDAD AND TOBAGO, TUNISIA, TURKEY,

TURKMENISTAN, TUVALU, UGANDA, UKRAINE, UNITED ARAB EMIRATES, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED REPUBLIC OF TANZANIA, URUGUAY, UZBEKISTAN, VANUATU, VENEZUELA (BOLIVARIAN REPUBLIC OF), VIET NAM, ZAMBIA, ZIMBABWE.

I. LEGAL GROUNDS

(1) "A state which is not a Member of the United Nations may bring to the attention of the…General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter," Article 35(2), U.N. Charter. The Hawaiian Kingdom accepts the obligations of pacific settlement (Annex 1).

(2) Violations of the principle that a State may not exercise its authority on the territory of another State and of the principle of sovereign equality among all States whether members on non-members of the United Nations.

(3) "There is a breach of an international obligation by a State when an act of that State is not in conformity with what is required of it by that obligation, regardless of its origin or character," Article 12, *Responsibility of States for International Wrongful Acts* (2001).

(4) "The State responsible for the internationally wrongful act is under an obligation (a) to cease that act, if it is continuing; (b) to offer appropriate assurances and guarantees of non-repetition, if circumstances so require," Article 30, *Responsibility of States for International Wrongful Acts* (2001).

(5) "The responsible State is under an obligation to make full reparation for the injury caused by the international wrongful act," Article 31(1), *Responsibility of States for International Wrongful Acts* (2001).

(6) "Injury includes any damage, whether material or moral, caused by the internationally wrongful act of a State," Article 31(2), *Responsibility of States for International Wrongful Acts* (2001).

(7) "The responsible State may not rely on the provisions of its internal law as justification for failure to comply with the obligations," Article 32, *Responsibility of States for International Wrongful Acts* (2001).

(8) "Full reparation for the injury caused by the internationally wrongful act shall take the form of restitution, compensation and satisfaction, either singly or in combination," Article 34, *Responsibility of States for International Wrongful Acts* (2001).

(9) "A breach of such an obligation is serious if it involves a gross or systematic failure by the responsible State to fulfill the obligation," Article 40(2), *Responsibility of States for International Wrongful Acts* (2001).

(10) "States shall cooperate to bring to an end through lawful means any serious breach within the meaning of article 40," Article 41(1), *Responsibility of States for International Wrongful Acts* (2001).

(11) "No State shall recognize as lawful a situation created by a serious breach within the meaning of article 40, nor render aid or assistance in maintaining that situation," Article 41(2), *Responsibility of States for International Wrongful Acts* (2001).

II. NATURE OF THE CLAIM

This case arises out of the prolonged and illegal occupation of the entire territory of the Hawaiian Kingdom by the United States of America since the Spanish-American War on August 12, 1898, and the failure on the part of the United States of America to establish a direct system of administering the laws of the Hawaiian Kingdom. There are currently 119 United States military sites throughout the Hawaiian Islands encompassing 230,622 acres of land under the command and control of the United States Pacific Command whose headquarters is situated on the Island of O'ahu. These military sites have been illegally established within the territory of the Hawaiian Kingdom and have consequently placed the Hawaiian State and its population in grave danger from military attack by foreign States, *e.g.* Japan's military attack of United States military sites on the Island of O'ahu on December 7, 1941, and the threat of missile attacks from China, the Democratic People's Republic of Korea, and the Russian Federation.

The United States disguised its occupation of the Hawaiian Kingdom as if a treaty of cession annexed the Hawaiian Islands. There is no treaty. For the past 114 years, the United States of America has committed a serious international wrongful act and deliberately misled the international community that the Hawaiian Islands had been incorporated into the territory of the United States. It has unlawfully imposed its internal laws over Hawaiian territory, which includes its territorial seas, its exclusive economic zone, and its airspace, in violation of its treaties with the Hawaiian Kingdom, the 1907 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law.

The Hawaiian Kingdom herein files this Protest and Demand as a non-member State pursuant to Article 35(2) of the United Nations Charter against the aforementioned member States for the violation of treaties and international law and calls upon the United Nations General Assembly:

1. To ensure the United States of America comply with the 1893 *Lili'uokalani assignment* & *Agreement of restoration*, 1899 Hague Convention, IV, the 1949 Geneva Convention, IV, and international law, as hereinafter described;

2. To ensure that the United States of America establishes a military government, to include tribunals, to administer and enforce the civil and penal laws of the Hawaiian Kingdom pursuant to the 1893 *Lili'uokalani*

assignment and Article 43 of the 1907 Hague Convention, IV, as hereinafter described;

3. To ensure that all member States of the United Nations shall not recognize as lawful the United States of America's presence and authority within the territory, territorial seas, exclusive economic zone and airspace of the Hawaiian Kingdom, except for its temporary and limited authority vested under the 1893 *Lili'uokalani assignment* and Article 43 of the 1907 Hague Convention, IV, as hereinafter described;

4. To ensure full reparation for the injury caused by the serious breach of obligations and internationally wrongful acts in the form of restitution, compensation and satisfaction, whether singly or in combination.

III. PRELIMINARY STATEMENT

The Hawaiian Kingdom received the recognition of its independence and sovereignty by joint proclamation from the United Kingdom and France on November 28, 1843 (Annex 2), and by the United States of America on July 6, 1844 (Annex 3). At the time of the recognition of Hawaiian independence, the Hawaiian Kingdom's government was a constitutional monarchy that developed a complete system of laws, both civil and criminal, and have treaty relations of a *most favored nation* status with the major powers of the world, including the United States of America.

A. PERMANENT POPULATION

According to Professor Crawford, "If States are territorial entities, they are also aggregates of individuals. A permanent population is thus necessary for statehood, though, as in the case of territory, no minimum limit is apparently prescribed."[1] Professor Giorgetti explains, "Once recognized, States continue to exist and be part of the international community even if their population changes. As such, changes in one of the fundamental requirements of statehood do not alter the identity of the State once recognized."[2]

> The population of the Hawaiian Islands can but be studied by one unfamiliar with the native tongue from its several census reports. A census is taken every six years. The last report is for the year 1890. From this it appears that the whole population numbers 89,990. This number includes natives, or, to use another designation, Kanakas, half-castes (persons containing an admixture of other than native blood in any proportion with it), Hawaiian-born foreigners of all races or nationalities other than natives,

[1] James Crawford, *The Creation of States in International Law*, 2nd ed. (Oxford, 2006), 52.
[2] Chiara Giorgetti, *A Principled Approach to State Failure* (Martinus Nijhoff Publishers, 2010), 55

> Americans, British, Germans, French, Portuguese, Norwegians, Chinese, Polynesians, and other nationalities.
>
> Americans number 1,928; natives and half-castes, 40,612; Chinese, 15,301; Japanese, 12,360; Portuguese, 8,602; British, 1,344; Germans, 1,034; French, 70; Norwegians, 227; Polynesians, 588; and other foreigners 419.
>
> It is well at this point to say that of the 7,495 Hawaiian-born foreigners 4,117 are Portuguese, 1,701 Chinese and Japanese, 1,617 other white foreigners, and 60 of other nationalities.[3]

The permanent population has exceedingly increased since the 1890 census and according to the last census in 2011 by the United States that number is now at 1,374,810.[4] International law, however, protects the *status quo* of the national population of an occupied State during occupation. According to Professor von Glahn, "the nationality of the inhabitants of occupied areas does not ordinarily change through the mere fact that temporary rule of a foreign government has been instituted, inasmuch as military occupation does not confer *de jure* sovereignty upon an occupant. Thus under the laws of most countries, children born in territory under enemy occupation possess the nationality of their parents, that is, that of the legitimate sovereign of the occupied area."[5] Any individual today who is a direct descendent of a person who lawfully acquired Hawaiian citizenship prior to the U.S. occupation that began at noon on August 12, 1898, is a Hawaiian subject. Hawaiian law recognizes all others who possess the nationality of their parents as part of the alien population.

B. DEFINED TERRITORY

According to Judge Huber, "Territorial sovereignty…involves the exclusive right to display the activities of a State."[6] Crawford also states, "Territorial sovereignty is not ownership of but governing power with respect to territory."[7]

> The laws are obligatory upon all persons, whether subjects of this kingdom, or citizens or subjects of any foreign State, while within the limits of this kingdom, except so far as exception is made by the laws of nations in respect to Ambassadors or others. The property of all such persons,

[3] United States House of Representatives, 53rd Congress, Executive Documents on Affairs in Hawaii: 1894-95, (Government Printing Office, 1895), 539
[4] *2011 Population Estimates*. United States Census Bureau, Population Division.
[5] Gehard von Glahn, *The Occupation of Enemy Territory: A Commentary on the Law and Practice of Belligerent Occupation* (University of Minnesota Press 1957), 60.
[6] Island of Palmas Case, 1 RIAA 829, 839 (Arbitrator Huber) 4 ILR 3 (1928), 103, 108, 110, 111, 113, 114, 418, 479, 482, 487, 492.
[7] Crawford, 56.

> while such property is within the territorial jurisdiction of this kingdom, is also subject to the laws.[8]

The Islands constituting the defined territory of the Hawaiian Kingdom on January 17, 1893, together with its territorial seas whereby the channels between adjacent Islands are contiguous, its exclusive economic zone of two hundred miles, and its air space, include:

Island:	Location:	Square Miles/Acreage:
Hawai‘i	19º 30' N 155º 30' W	4,028.2 / 2,578,048
Maui	20º 45' N 156º 20' W	727.3 / 465,472
O‘ahu	21º 30' N 158º 00' W	597.1 / 382,144
Kaua‘i	22º 03' N 159º 30' W	552.3 / 353,472
Molokai	21º 08' N 157º 00' W	260.0 / 166,400
Lana‘i	20º 50' N 156º 55' W	140.6 / 89,984
Ni‘ihau	21º 55' N 160º 10' W	69.5 / 44,480
Kaho‘olawe	20º 33' N 156º 35' W	44.6 / 28,544
Nihoa	23º 06' N 161º 58' W	0.3 / 192
Molokini	20º 38' N 156º 30' W	0.04 / 25.6
Lehua	22º 01' N 160º 06' W	0.4 / 256
Ka‘ula	21º 40' N 160º 32' W	0.2 / 128
Laysan	25º 50' N 171º 50' W	1.6 / 1,024
Lisiansky	26º 02' N 174º 00' W	0.6 / 384
Palmyra	05º 52' N 162º 05' W	4.6 / 2,944
Ocean	28º 25' N 178º 25' W	0.4 / 256
TOTAL:		6,427.74 / 4,113,753.6

C. GOVERNMENT

According to Crawford, “Governmental authority is the basis for normal inter-State relations; what is an act of a State is defined primarily by reference to its organs of government, legislative, executive or judicial.”[9] Since 1864, the Hawaiian Kingdom fully adopted the separation of powers doctrine in its constitution, being the cornerstone of constitutional governance.

> Article 20. The Supreme Power of the Kingdom in its exercise, is divided into the Executive, Legislative, and Judicial; these shall always be preserved distinct, and no Judge of a Court of Record shall ever be a member of the Legislative Assembly.
>
> Article 31. To the [Queen] belongs the executive power.

[8] Compiled Laws of the Hawaiian Kingdom (1884), §6.
[9] Crawford, 56.

> Article 45. The Legislative power of the Three Estates of this Kingdom is vested in the King, and the Legislative Assembly; which Assembly shall consist of the Nobles appointed by the King, and of the Representatives of the People, sitting together.
>
> Article 66. The Judicial Power shall be divided among the Supreme Court and the several Inferior Courts of the Kingdom, in such manner as the Legislature may, from time to time, prescribe, and the tenure of office in the Inferior Courts of the Kingdom shall be such as may be defined by the law creating them. (Annex 4).

1. Power to Declare and Wage War & to Conclude Peace

The power to declare war and to conclude peace is constitutionally vested in the office of the Monarch pursuant to Article 26, Hawaiian Constitution, "The [Queen] is the Commander-in-Chief of the Army and Navy, and for all other Military Forces of the Kingdom, by sea and land; and has full power by [Her]self, or by any officer or officers [She] may judge best for the defence and safety of the Kingdom. But [she] shall never proclaim war without the consent of the Legislative Assembly." (Annex 4).

2. To Maintain Diplomatic Ties with Other Sovereigns

Maintaining diplomatic ties with other States is vested in the office of the Monarch pursuant to Article 30, Hawaiian Constitution, "It is the [Queen's] Prerogative to receive and acknowledge Public Ministers…" (Annex 4). The officer responsible for maintaining diplomatic ties with other States is the Minister of Foreign Affairs whose duty is "to conduct the correspondence of [the Hawaiian] Government, with the diplomatic and consular agents of all foreign nations, accredited to this Government, and with the public ministers, consuls, and other agents of the Hawaiian Islands, in foreign countries, in conformity with the law of nations, and as the [Queen] shall from time to time, order and instruct." §437, Compiled Laws of the Hawaiian Kingdom. (Annex 5). The Minister of Foreign Affairs shall also "have the custody of all public treaties concluded and ratified by the Government; and it shall be his duty to promulgate the same by publication in the government newspaper. When so promulgated, all officers of this government shall be presumed to have knowledge of the same." §441, Compiled Laws of the Hawaiian Kingdom. (Annex 5).

3. To Acquire Territory by Discovery or Occupation

Between 1822 and 1886, the Hawaiian Kingdom exercised the power of discovery and occupation that added five additional islands to the Hawaiian Domain. By direction of Ka'ahumanu in 1822, Captain William Sumner took possession of the Island of Nihoa. On May 1, 1857; Laysan Island was taken possession by Captain John Paty for the Hawaiian Kingdom; on May 10, 1857 Captain Paty also took possession of Lysiansky

Island; Palmyra Island was taken possession of by Captain Zenas Bent on April 15, 1862; and Ocean Island was acquired September 20, 1886, by proclamation of Colonel J.H. Boyd.

4. To Make International Agreements and Treaties and Maintain Diplomatic Relations with other States

Article 29, Hawaiian Constitution, provides, "The [Queen] 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 Legislative Assembly." (Annex 4). As a result of the United States of America's recognition of Hawaiian independence, the Hawaiian Kingdom entered into a Treaty of Friendship, Commerce and Navigation, Dec. 20th 1849 (Annex 6); Treaty of Commercial Reciprocity, Jan. 13, 1875 (Annex 7); Postal Convention Concerning Money Orders, Sep. 11, 1883 (Annex 8); and a Supplementary Convention to the 1875 Treaty of Commercial Reciprocity, Dec. 6, 1884 (Annex 9).

The Hawaiian Kingdom also entered into treaties with Austria-Hungary, June 18, 1875; Belgium, October 4, 1862; Bremen (succeeded by Germany), March 27, 1854; Denmark, October 19, 1846; France, September 8, 1858; French Tahitit, November 24, 1853; Germany, March 25, 1879; the United Kingdom of Great Britain and Northern Ireland) March 26, 1846; New South Wales (now Australia), March 10, 1874 (Annex 17); Hamburg (succeeded by Germany), January 8, 1848) (Annex 18); Italy, July 22, 1863; Japan, August 19, 1871, January 28, 1886; Netherlands, October 16, 1862; Portugal, May 5, 1882; Russia, June 19, 1869; Samoa, March 20, 1887; Spain, October 9, 1863; Sweden-Norway (now separate States), April 5, 1855; and Switzerland, July 20, 1864.

Foreign Legations accredited to the Court of the Hawaiian Kingdom in the city of Honolulu included the United States of America, Portugal, Great Britain, France and Japan.

Foreign Consulates in the Hawaiian Kingdom included the United States of America, Italy, Chile, Germany, Sweden-Norway, Denmark, Peru, Belgium, Netherlands, Spain, Austria-Hungary, Russia, Great Britain, Mexico and China.

Hawaiian Legations accredited to foreign States included the United States of America in the city of Washington, D.C.; Great Britain in the city of London; France in the city of Paris, Russia in the city of Saint Petersburg; Peru in the city of Lima; and Chile in the city of Valparaiso.

Hawaiian Consulates in foreign States included the United States of America in the cities of New York, San Francisco, Philadelphia, San Diego, Boston, Portland, Port Townsend and Seattle; Mexico in Mexico city and the city of Manzanillo; Guatemala; Peru in the city of Callao; Chile in the city of Valparaiso; Uruguay in the city of Monte Video; Philippines (former Spanish territory) in the city of Iloilo and Manila; Great Britain in the cities of London, Bristol, Hull, Newcastle on Tyne, Falmouth, Dover,

Cardiff and Swansea, Edinburgh and Leith, Glasgow, Dundee, Queenstown, Belfast; Ireland (former British territory) in the cities of Liverpool, and Dublin; Canada (former British territory) in the cities of Toronto, Montreal, Bellville, Kingston Rimouski, St. John's, Varmouth, Victoria, and Vancouver; Australia in the cities of Sydney, Melbourne, Brisbane, Hobart, and Launceston; New Zealand (former British territory) in the cities of Auckland and Dunedin; China in the cities of Hong Kong and Shanghai; France in the cities of Paris, Marseilles, Bordeaux, Dijon, Libourne and Papeete; Germany in the cities of Bremen, Hamburg, Frankfort, Dresden and Karlsruhe; Austria in the city of Vienna; Spain in the cities of Barcelona, Cadiz, Valencia Malaga, Cartegena, Las Palmas, Santa Cruz and Arrecife de Lanzarote; Portugal in the cities of Lisbon, Oporto Madeira, and St. Michaels; Cape Verde (former Portuguese territory) in the city of St. Vincent; Italy in the cities of Rome, Genoa, and Palermo; Netherland in the cities of Amsterdam and Dordrecht; Belgium in the cities of Antwerp, Ghent, Liege and Bruges; Sweden in the cities of Stockholm, Lyskil, and Gothemburg; Norway in the city of Oslo (formerly known as Kristiania); Denmark in the city of Copenhagen; and Japan in the city of Tokyo.

IV. STATEMENT OF THE FACTS

A. THE *LILI'UOKALANI ASSIGNMENT* OF EXECUTIVE POWER & THE *AGREEMENT OF RESTORATION* OF THE HAWAIIAN KINGDOM GOVERNMENT

"Governmental authority," states Crawford, "is the basis for normal inter-State relations; what is an act of a State is defined primarily by reference to its organs of government, legislative, executive or judicial."[10] On January 17, 1893, Queen Lili'uokalani, who was constitutionally vested with the "executive power" under Article 31 of the Hawaiian Constitution, was unable to apprehend certain insurgents calling themselves the provisional government without armed conflict between U.S. troops and the Hawaiian police force headed by Marshal Charles Wilson. She was forced to temporarily assign her executive power to the President of the United States under threat of war under the following protest.

> I, Liliuokalani, by the grace of God and under the constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a provisional government of and for this Kingdom.
>
> That I yield to the superior force of the United States of America, whose minister plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the said provisional government.

[10] Crawford, 56.

> Now, to avoid any collision of armed forces and perhaps the loss of life, I do, under this protest, and impelled by said force, yield my authority until such time as the Government of the United States shall, upon the facts being presented to it, undo the action of its representatives and reinstate me in the [executive] authority which I claim as the constitutional sovereign of the Hawaiian Islands**.** (Annex 10, at 461).

1. Presidential Investigation initiated by President Cleveland

United States President Cleveland's investigation found that the United States Legation accredited to the Hawaiian Kingdom, together with United States Marines and Naval personnel, were directly responsible for the illegal overthrow of the Hawaiian government with the ultimate goal of transferring the Hawaiian Islands to the United States from an installed government.[11] U.S. Special Commissioner Blount reported that, "in pursuance of a prearranged plan, the Government thus established hastened off commissioners to Washington to make a treaty for the purpose of annexing the Hawaiian Islands to the United States."[12] The report also detailed the culpability of the United States government in violating international laws, as well as Hawaiian State territorial sovereignty.

President Cleveland described the United States' action as an "act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress."[13] Thus he acknowledged that through such acts the government of a peaceful and friendly people was overthrown. Cleveland further stated that 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."[14]. According Professor Marek:

> It is a well-known rule of customary international law that third States are under a clear duty of non-intervention and non-interference in civil strife within a State. Any such interference is an unlawful act, even if, far from taking the form of military assistance to one of the parties, it is merely confined to premature recognition of the rebel government.[15]

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[11] United States House of Representatives, 53rd Congress, Executive Documents on Affairs in Hawaii: 1894-95, (Government Printing Office 1895), 567, [hereafter Executive Documents]. Reprinted at 1 *Hawaiian Journal of Law & Politics* 136 (Summer 2004).
[12] *Id.,* 587.
[13] *Id*., 456. Reprinted at 1 *Hawaiian Journal of Law & Politics* 201 (Summer 2004).
[14] *Id*.
[15] Krystyna Marek, *Identity and Continuity of States in Public International Law*, 2nd ed., (Librairie Droz 1968), 64.

In a dispatch to United States Minister Plenipotentiary Albert Willis, assigned to the Hawaiian Kingdom, on October 18, 1893, U.S. Secretary of State Gresham apprised Willis of the findings of the Presidential investigation.

> The Provisional Government was not established by the Hawaiian people, or with their consent or acquiescence, nor has it since existed with their consent. The Queen refused to surrender her powers to the Provisional Government until convinced that the minister of the United States had recognized it as the *de facto* authority, and would support and defend it with the military force of the United States, and that resistance would precipitate a bloody conflict with that force. She was advised and assured by her ministers and by leaders of the movement for the overthrow of her government, that if she surrendered under protest her case would afterwards be fairly considered by the President of the United States. The Queen finally wisely yielded to the armed forces of the United States then quartered in Honolulu, relying upon the good faith and honor of the President, when informed of what had occurred, to undo the action of the minister and reinstate her and the authority which she claimed as the constitutional sovereign of the Hawaiian Islands.
>
> After a patient examination of Mr. Blount's reports the President is satisfied that the movement against the Queen, if not instigated, was encouraged and supported by the representative of this Government at Honolulu; that he promised in advance to aid her enemies in an effort to overthrow the Hawaiian Government and set up by force a new government in its place; and that he kept this promise by causing a detachment of troops to be landed from the *Boston* on the 16th of January, and by recognizing the Provisional Government the next day when it was too feeble to defend itself and the constitutional government was able to successfully maintain its authority against any threatening force other than that of the United States already landed.
>
> The President has therefore determined that he will not send back to the Senate for its action thereon the treaty which he withdrew from that body for further consideration on the 9th day of March last. On your arrival at Honolulu you will take advantage of an early opportunity to inform the Queen of this determination, making known to her the President's sincere regret that the reprehensible conduct of

> the American minister and the unauthorized presence on land of a military force of the United States obliged her to surrender her sovereignty, for the time being, and rely on the justice of this Government to undo the flagrant wrong.
>
> You will, however, at the same time inform the Queen that, when reinstated, the President expects that she will pursue a magnanimous course by granting full amnesty to all who participated in the movement against her, including persons who are, or have been, officially or otherwise, connected with the Provisional Government, depriving them of no right or privilege which they enjoyed before the so-called revolution. All obligations created by the Provisional Government in due course of administration should be assumed. (Annex 10, at 463-464).

In the initial meeting with U.S. Minister Willis on November 13, 1893, at the U.S. Legation in Honolulu, Queen Lili‘uokalani refused to grant amnesty and cited Chapter VI—Treason, Hawaiian Penal Code.

> 1. Treason is hereby defined to be any plotting or attempt to dethrone or destroy the King, or the levying of war against the King’s government, or the adhering to the enemies thereof giving them aid and comfort, the same being done by a person owing allegiance to this kingdom.
>
> 9. Whoever shall commit the crime of treason, shall suffer the punishment of death; and all his property shall be confiscated to the government. (Annex 11).

But after one month of continued negotiation with U.S. Minister Willis, Queen Lili‘uokalani, on December 18, 1893, signed the following declaration agreeing to grant amnesty after the government is restored.

> I, Liliuokalani, in recognition of the high sense of justice which has actuated the President of the United States, and desiring to put aside all feelings of personal hatred or revenge and to do what is best for all the people of these Islands, both native and foreign born, do hereby and herein solemnly declare and pledge myself that, if reinstated as the constitutional sovereign of the Hawaiian Islands, that I will immediately proclaim and declare, unconditionally and without reservation, to every person who directly or indirectly participated in the revolution of January 17, 1893, a full pardon and amnesty for their offenses, with restoration of all rights, privileges, and

> immunities under the constitution and the laws which have been made in pursuance thereof, and that I will forbid and prevent the adoption of any measures of proscription or punishment for what has been done in the past by those setting up or supporting the Provisional Government. I further solemnly agree to accept the restoration under the constitution existing at the time of said revolution and that I will abide by and fully execute that constitution with all the guaranties as to person and property therein contained. I furthermore solemnly pledge myself and my Government, if restored, to assume all the obligations created by the Provisional Government, in the proper course of administration, including all expenditures for military or police services, it being my purpose, if restored, to assume the Government precisely as it existed on the day when it was unlawfully overthrown. (Annex 12, at 1269).

On December 20, 1893, Willis dispatched the Queen's acceptance of the condition of restoration to Gresham in Washington, D.C. In a dispatch to Willis on January 13, 1893, Gresham acknowledged receipt of the Queen's declaration.

> On the 18th ultimo the President sent a special message to Congress communicating copies of the Mr. Blount's reports and the instructions given to him and you. On the same day, answering a resolution of the House of Representatives, he sent copies of all correspondence since March 4, 1889, on the political affairs and relations of Hawaii, withholding, for sufficient reasons, only Mr. Stevens' No. 70 of October 8, 1892, and your No. 3 of November 16, 1893. The President therein announced that the conditions of restoration suggested by him to the Queen had not proved acceptable to her, and that since the instructions sent to you to insist upon those conditions he had not learned that the Queen was willing to assent to them. The President thereupon submitted the subject to the more extended powers and wider discretion of Congress, adding the assurance that he would be gratified to cooperate in any legitimate plan which might be devised for a solution of the problem consistent with American honor, integrity, and morality.
>
> Your reports show that on further reflection the Queen gave her unqualified assent in writing to the conditions suggested, but that the Provisional Government refuses to acquiesce in the President's decision.

> The matter now being in the hands of Congress the President will keep that body fully advised of the situation, and will lay before it from time to time the reports received from you, including your No. 3, heretofore withheld, and all instructions sent to you. In the meantime, while keeping the Department fully informed of the course of events, you will, until further notice, consider your special instructions upon this subject have been fully complied with. (Annex 12, at 1283-1284).

2. Settlement by Executive Agreements through Exchange of Notes

According to Professor Garner, "Agreements in the form of an *exchange of notes* between certain high officials acting on behalf of States, usually their Ministers of Foreign Affairs or diplomatic representatives are numerous… They are employed for a variety of purposes and, like instruments which are designated as 'treaties', they may deal with any matter which is a proper subject of international regulation. One of their most common objects is to record the understandings of the parties to a treaty which they have previously entered into; but they may record an entirely new agreement, sometimes one which has been reached as a result of negotiation. While the purpose of an agreement effected by any *exchange of notes* may not differ from that of instruments designated by other names, it is strikingly different in its form from a 'treaty' or a 'convention.' Unlike a treaty, the relations which it establishes or seeks to establish is recorded, not in a single highly formalized instrument, but in two or more letters usually called 'notes,' signed by Ministers or other officials."[16] Dr. Myers explains, "*Exchange of notes* is the most flexible form of a treaty… The exchange consists of an offer and an acceptance… The offering instrument contains a text of the proposed agreement and the acceptance invariably repeats it verbatim, with assent."[17]

The purpose of President Cleveland submitting the matter to Congress was to seek the authorization of force to be employed against the insurgents. It was not to seek authority for the agreements with Queen Lili'uokalani. After President Cleveland notified Congress by Presidential message on January 13, 1894 of the *Agreement of restoration* made with Queen Lili'uokalani, newspapers reported the settlement and the defiance of the insurgency to step down. *New York Tribune*, January 14, 1894 (Annex 13); *St. Paul Sunday Globe newspaper*, January 14, 1894 (Annex 14); *The Princeton Union newspaper,* January 18, 1894 (Annex 15); and *Hawai'i Holomua newspaper*, January 24, 1894 (Annex 16).

Under and by virtue of the *Lili'uokalani assignment*, executive power of the Hawaiian Kingdom remains vested in the President of the United States to faithfully administer Hawaiian Kingdom law, until the Hawaiian Kingdom government is restored

[16] 29 *American Journal of International Law Supplement* 698 (1935).
[17] Denys P. Myers, *The Names and Scope of Treaties*, 51 American Journal of International Law 590 (1957).

pursuant to the *Agreement of restoration*, whereby the executive power is reassigned and thereafter the Monarch to grant amnesty. The failure of Congress to authorize the President to use force did not diminish the validity of the executive agreements, being the *Lili'uokalani assignment* and the *Agreement of restoration*. Despite over a century of non-compliance, these executive agreements remain binding upon the office of President of the United States to date. According to Professor Wright, the President binds "himself and his successors in office by executive agreements."[18]

President Cleveland failed to follow through in his commitment to administer Hawaiian law and re-instate the constitutional government as a result of partisan wrangling in the U.S. Congress.[19] In a deliberate move to further isolate the Hawaiian Kingdom from any assistance by other States and treaty partners and to reinforce and protect the puppet government installed by U.S. officials, the Senate and House of Representatives each passed similar resolutions in 1894 strongly warning other countries "that any intervention in the political affairs of these islands by any other Government will be regarded as an act unfriendly to the United States."[20]

The Hawaiian Kingdom was thrown into civil unrest as a result. Five years passed before Cleveland's presidential successor, William McKinley, entered into a second treaty of cession with the same individuals who participated in the illegal overthrow with the U.S. legation in 1893, and were now calling themselves the Republic of Hawai'i. This second treaty was signed on June 16, 1897 in Washington, D.C., but would "be taken up immediately upon the convening of Congress next December."[21]

3. *Protests Prevent Second Attempt to Annex Hawaiian Islands by Treaty*

Queen Lili'uokalani was in the United States at the time of the signing of the treaty and protested the second annexation attempt of the country. While in Washington, D.C., the Queen filed a diplomatic protest with the United States Department of State on June 17, 1897. The Queen stated, in part:

> I, Lili'uokalani of Hawai'i, by the will of God named heir apparent on the tenth day of April, A.D. 1877, and by the grace of God Queen of the Hawaiian Islands on the seventeenth day of January, A.D. 1893, do hereby protest against the ratification of a certain treaty, which, so I am informed, has been signed at Washington by Messrs. Hatch, Thurston, and Kinney, purporting to cede those Islands to the territory and dominion of the United States. I declare

[18] Quincy Wright, *The Control of American Foreign Relations*, (The MacMillan Co., 1922), 235.
[19] Ralf Kuykendall, *The Hawaiian Kingdom: 1874-1893, The Kalakaua Dynasty,* vol. III (Honolulu: University of Hawai'i Press 1967), 647.
[20] Senate Resolution, May 31, 1894, 53rd Congress, 2nd Session, vol. 26.
[21] "Hawaiian Treaty to Wait—Senator Morgan Suggests that It Be Taken Up at This Session Without Result." *The New York Times*, 3 (July 25, 1897).

> such a treaty to be an act of wrong toward the native and part-native people of Hawaii, an invasion of the rights of the ruling chiefs, in violation of international rights both toward my people and toward friendly nations with whom they have made treaties, the perpetuation of the fraud whereby the constitutional government was overthrown, and, finally, an act of gross injustice to me.[22] (Annex 17)

Hawaiian political organizations in the Islands filed additional protests with the Department of State in Washington, D.C. These organizations were the Men and Women's Hawaiian Patriotic League (Hui Aloha 'Aina), and the Hawaiian Political Association (Hui Kalai'aina).[23] (Annex 18) In addition, a petition of 21,269 signatures of Hawaiian subjects and resident aliens protesting annexation was filed with the Senate when it convened in December 1897.[24] (Annex 19) The Senate was unable to garner enough votes to ratify the so-called treaty, but events would quickly change as war loomed between the United States of America and Spain.

The legal significance of these protests creates a fundamental bar to any future claim the United States may assert over the Hawaiian Islands by acquisitive *prescription*. "*Prescription,*" according to Professor Gehard von Glahn, "means that a foreign state occupies a portion of territory claimed by a state, encounters no protest by the 'owner,' and exercises rights of sovereignty over a long period of time."[25]

4. Illegal Seizure and Occupation of the Hawaiian Islands by the United States of America during the Spanish-American War

Unable to procure a treaty of cession from the Hawaiian Kingdom government acquiring the Hawaiian Islands as required by international law, Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States,* which was signed into law by President McKinley on July 7, 1898 during the Spanish-American War (Annex 20) as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War, and the occupation was justified as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. The justification as a war measure was clearly displayed in a secret session of the United States Senate on May 31, 1898 (Annex 21). Following the close of the Spanish-American War by the Treaty of Paris signed December 10, 1898,[26] U.S. troops remained

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[22] Liliuokalani, *Hawaii's Story by Hawaii's Queen* (Charles E. Tuttle Co., Inc. 1964), 354. Reprinted at 1 *Hawaiian Journal of Law & Politics* 227 (Summer 2004).
[23] Tom Coffman, *Nation Within: The Story of America's Annexation of the Nation of Hawai'i* (Tom Coffman/Epicenter 1999), 268.
[24] Noenoe Silva, *Aloha Betrayed: Native Hawaiian Resistance to American Colonialism* (Duke University Press 2004), 145-159. *See* also Coffman, 273-287.
[25] Gerhard von Glahn's, *Law Among Nations*, 6th ed., (Macmillan Publishing Company 1992), 371.
[26] 30 U.S. Stat. 1754

in the Hawaiian Islands and continued its occupation to date in violation of international law and the 1893 *Lili'uokalani assignment* and the *Agreement of restoration*.

Furthering the illegal occupation, President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900 (Annex 22); and on March 18, 1959, President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union* (Annex 23). These laws, which include the 1898 joint resolution of annexation, have no extraterritorial effect and stand in direct violation of the *Lili'uokalani assignment* and *Agreement restoration*, being international compacts, the 1907 Hague Convention, IV, and the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV.

5. United States Misrepresents Hawai'i before the United Nations General Assembly

In 1946, prior to the passage of the Statehood Act, the United States further misrepresented its relationship with Hawai'i when the United States ambassador to the United Nations identified Hawai'i as a non-self-governing territory under the administration of the United States since 1898. In accordance with Article 73(e) of the U.N. Charter, the United States ambassador reported Hawai'i as a non-self-governing territory.[27] The fundamental flaw is that Hawai'i should have never been placed on the list in the first place, because it already achieved self-governance as a sovereign independent State beginning in 1843 and acknowledged by the Arbitral Tribunal in *Larsen v. Hawaiian Kingdom*, Permanent Court of Arbitration, in 2001. In *Larsen*, the Tribunal determined, "in the nineteenth century the Hawaiian Kingdom existed as an independent State recognized as such by the United States of America, the United Kingdom, and various other States." (Annex 24, p. 581).

Hawai'i was deliberately treated as a non-self-governing territory or colonial possession in order to conceal the United States' prolonged occupation of an independent and sovereign State for military purposes. The reporting of Hawai'i as a non-self-governing territory also coincided with the United States establishment of the military headquarters for the Pacific Command (PACOM) on the Island of O'ahu. If the United Nations had been aware of Hawai'i's continued legal status as an occupied and neutral State, member States of the United Nations would have prevented the United States from maintaining their military presence.

The initial Article 73(e) list comprised of non-sovereign territories under the control of sovereign States such as Australia, Belgium, Denmark, France, Netherlands, New Zealand, United Kingdom and the United States. In addition to Hawai'i, the U.S. also reported its territories of Alaska, American Samoa, Guam, Panama Canal Zone, Puerto Rico and the Virgin Islands. The U.N. General Assembly, in a resolution entitled "Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 (e) of the Charter," defined

[27] *Transmission of Information under Article 73e of the Charter*, December 14, 1946, United Nations General Assembly Resolution 66(I).

self-governance in three forms: a sovereign independent State; free association with an independent State; or integration with an independent State.[28] None of the territories on the list of non-self-governing territories, with the exception of Hawai'i, were recognized sovereign States.

Despite past misrepresentations of Hawai'i before the United Nations by the United States, there are two facts that still remain. First, inclusion of Hawai'i on the United Nations list of non-self-governing territories was an inaccurate depiction of a sovereign State whose rights had been violated; and, second, Hawai'i remains a sovereign and independent State despite the illegal overthrow of its government in 1893 and the prolonged occupation of its territory for military purposes since 1898.

B. ESTABLISHING THE *ACTING* GOVERNMENT OF THE HAWAIIAN KINGDOM

On December 10, 1995, a general partnership was formed in compliance with an *Act to Provide for the Registration of Co-partnership Firms*, 1880. (Annex 25). The partnership was named the Perfect Title Company (PTC), and functioned as a land title abstracting company. (Annex 26). Since the enactment of the 1880 Co-partnership Act, members of co-partnership firms within the Kingdom registered their articles of agreements in the Bureau of Conveyances, being a part of the Interior department of the Hawaiian Kingdom. This same Bureau of Conveyances continues to exist and is presently administered by the United States of American, by its political subdivision, the State of Hawai'i. The law requires a notary public to acknowledge all documents before being registered with the Bureau,[29] but there have been no lawful notaries public in the Islands since 1893. All State of Hawai'i notaries public are commissioned under and by virtue of United States law. Therefore, in order for the partners of PTC to get their articles of agreement registered in the Bureau of Conveyances in compliance with the 1880 co-partnership statute, the following protest was incorporated and made a part of PTC's articles of agreement, which stated:

> Each partner also agrees that the business is to be operated in strict compliance to the business laws of the Hawaiian Kingdom as noted in the "Compiled Laws of 1884" and the "session laws of 1884 and 1886." Both partners are native Hawaiian subjects by birth and therefore are bound and subject to the laws above mentioned. And it is further agreed by both partners that due to the filing requirements of the Bureau of Conveyances to go before a

[28] *Principles which should guide Members in determining whether or not an obligation exists to transmit the information called for under Article 73 (e) of the Charter*, December 15, 1960, United Nations Resolution 1541 (XV).
[29] Hawai'i Revised Statutes, §502-41.

> foreign notary public within the Hawaiian Kingdom, they do this involuntarily and against their will.[30]

PTC commenced on December 10, 1995, but there was no *military* government to ensure PTC's compliance with the co-partnership statute from that date. The registration of co-partnerships creates a contract between co-partnerships on the one hand, and the Minister of the Interior, representing the government, on the other. It is obligatory for co-partnerships to register their articles of agreement with the Minister of the Interior, and for the Minister of the Interior, it is his duty to ensure that co-partnerships maintain their compliance with the statute. This is a contractual relationship, whereby:

> there must be a promise binding the person[s] subject to the obligation; and in order to give a binding force to the promise the obligation must come within the sphere of Agreement. There must be an acceptance of the promise by the person to whom it is made, so that by their mutual consent the one is bound to the other. A Contract then springs from the offer of a promise and its acceptance.[31]

The registration of co-partnerships is the offer of the promise by its members to abide by the obligation imposed by the statute, and the acceptance of this offer by the Interior department creates a contractual relationship whereby "one is bound to the other." Section 7 of the 1880 Co-partnership Act clearly outlines the obligation imposed upon the members of co-partnerships in the Kingdom, which states:

> The members of every co-partnership who shall neglect or fail to comply with the provisions of this law, shall severally and individually be liable for all the debts and liabilities of such co-partnership and may be severally sued therefore, without the necessity of joining the other members of the co-partnership in any action or suit, and shall also be severally liable upon conviction, to a penalty not exceeding five dollars for each and every day while such default shall continue; which penalties may be recovered in any Police or District Court.[32]

The partners of PTC desired to establish a legitimate co-partnership pursuant to Hawaiian Kingdom law and in order for the title company to exist as a legal co-partnership firm, the government had to be reestablished in an *acting* capacity in order to serve as a necessary party to the contractual relationship created under and by virtue of the statute. An acting official is "not an appointed incumbent, but merely a *locum tenens*,

[30] Co-partnership Agreement establishing Perfect Title Company, December 10,1995, document no. 95-153346, Hawai'i Bureau of Conveyances.
[31] Sir William R. Anson, *Principles of the Law of Contract* (Callaghan and Company, 1880), 11.
[32] Compiled Laws, 649.

who is performing the duties of an office to which he himself does not claim title."[33] It is an official that temporarily assumes the duties and authority of government.

The last legitimate Hawaiian Legislative Assembly of 1886 was prevented from reconvening as a result of the 1887 revolution. The subsequent Legislative Assembly of 1887 was based on an illegal constitution, which altered existing voting rights, and led to the illegal election of the 1887 Legislature. As a result, there existed no legitimate Nobles in the Legislative Assembly when Queen Lili'uokalani ascended to the Office of Monarch in 1891, and therefore, the Queen was unable to obtain confirmation for her named successors from those Nobles of the 1886 Legislative Assembly as required by the 1864 Constitution. Tragically, when the Queen died on November 11, 1917, there were no lawful successors to the Throne. In the absence of a confirmed successor to the Throne by the Nobles of the Legislative Assembly, Article 33 of the Constitution of 1864 provides:

> "should a Sovereign decease…and having made no last Will and Testament, the Cabinet Council at the time of such decease shall be a Council of Regency, until the Legislative Assembly, which shall be called immediately, may be assembled, and the Legislative Assembly immediately that it is assembled shall proceed to choose by ballot, a Regent or Council of Regency, who shall administer the Government in the name of the King, and exercise all the Powers which are Constitutionally vested in the King." (Annex 4)

Hawaiian law did not assume that the whole of the Hawaiian government would be made vacant, and, consequently, the law did not formalize provisions for the reactivation of the government in extraordinary circumstances. Therefore, a deliberate course of action was taken to re-activate the Hawaiian government by and through its executive branch as officers *de facto*. In view of such an extreme emergency, Proffessor Oppenheimer states that, "a temporary deviation from the wording of the constitution is justifiable if this is necessary to conserve the sovereignty and independence of the country."[34]

When properly interpreted, the 1864 Constitution provides that the Cabinet Council shall be a Council of Regency until a proper Legislative Assembly can be convened to "elect by ballot some native Ali'i [Chief] of the Kingdom as Successor to the Throne." (Annex 4) It further provides that the Regent or Council of Regency "shall administer the Government in the name of the King, and exercise all the Powers which are Constitutionally vested in the King." (Annex 4) The Constitution also provides that the Cabinet Council "shall consist of the Minister of Foreign Affairs, the Minister of the Interior, the Minister of Finance, and the Attorney General of the Kingdom, and these

[33] *Black's Law*, 6th ed. (West Publishing Company 1990), 26.
[34] F.E. Oppenheimer, "Governments and Authorities in Exile," 36 *American Journal of International Law* 581 (1942).

shall be His Majesty's Special Advisers in the Executive affairs of the Kingdom." (Annex 4)

Interpretation of these constitutional provisions allows for the Minister of Interior to assume the powers vested in the Cabinet Council in the absence of the Minister of Foreign Affairs, the Minister of Finance and the Attorney General, and consequently serve as Regent. This is a similar scenario that took place in 1940 when German forces invaded Belgium and captured King Leopold. As a result, the Belgian cabinet became a government in exile and, as a council of Regency, assumed all powers constitutionally vested in the King. Oppenheimer explains:

> As far as Belgium is concerned, the capture of the king did not create any serious constitutional problems. According to Article 82 of the Constitution of February 7, 1821, as amended, the cabinet of ministers have to assume supreme executive power if the King is unable to govern. True, the ministers are bound to convene the House of Representatives and the Senate and to leave it to the decision of the united legislative chambers to provide for a regency; but in view of the belligerent occupation it is impossible for the two houses to function. While this emergency obtains, the powers of the King are vested in the Belgian Prime Minister and the other members of the cabinet.[35]

The 1880 Co-partnership Act requires members of co-partnerships to register their articles of agreement in the Bureau of Conveyances, which is within the Interior department.[36] The Minister of the Interior holds a seat of government as a member of the cabinet council, together with the other ministers. Article 43 of the Constitution provides that, "Each member of the King's Cabinet shall keep an office at the seat of Government, and shall be accountable for the conduct of his deputies and clerks." Necessity dictated that in the absence of any "deputies or clerks" of the Interior department, the partners of a registered co-partnership could assume the duty of the same because of the current state of affairs. Therefore, it was reasonable that partners of a registered co-partnership could assume the powers vested in the Registrar of the Bureau of Conveyances in the absence of the same; then assume the powers vested in the Minister of Interior in the absence of the same; then assume the powers constitutionally vested in the Cabinet Council in the absence of the Minister of Foreign Affairs, the Minister of Finance and the Attorney General; and, finally assume the power constitutionally vested in the Cabinet as a Regency. A regency is defined as "the man or body of men intrusted with the vicarious government of a kingdom during the minority, absence, insanity, or other disability of the [monarch]."[37]

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[35] Oppenheimer, 569.
[36] Compiled Laws, §1249.
[37] Black's Law, 1282.

With the specific intent of assuming the "seat of Government," the partners of PTC formed a second partnership called the Hawaiian Kingdom Trust Company (HKTC) on December 15, 1995. (Annex 27). The partners intended that this registered partnership would serve as a provisional surrogate for the Council of Regency. Therefore, and in light of the ascension process explained above, HKTC could then serve as officers *de facto* for the Registrar of the Bureau of Conveyances, the Minister of Interior, the Cabinet Council, and ultimately as the Council of Regency. Article 1 of HKTC 's deed of general partnership provided:

> "The above mentioned parties have agreed to form a general partnership under the firm name of Hawaiian Kingdom Trust Company in the business of administering, investigating, determining and the issuing of land titles, whether in fee, or for life, or for years, in such manner as Hawaiian law prescribes… The company will serve in the capacity of *acting* for and on behalf of the Hawaiian Kingdom government. The company has adopted the Hawaiian Constitution of 1864 and the laws lawfully established in the administration of the same. The company is to commence on the 15th day of December, A.D. 1995, and shall remain in existence until the absentee government is re-established and fully operational, upon which all records and monies of the same will be transferred and conveyed over to the office of the Minister of Interior, to have and to hold under the authority and jurisdiction of the Hawaiian Kingdom."

Thirty-eight deeds of trusts conveyed by Hawaiian subjects to HKTC acknowledged the trust as a company acting for and on behalf of the Hawaiian government and outlined the role of the trust company and its fiduciary duty it had to its beneficiaries.[38] (Annex 28). HKTC was not only competent to serve as the *acting* cabinet council, but also possessed a fiduciary duty toward its beneficiaries to serve in that capacity until the government is re-established *de jure* in accordance with the terms of the 1893 Cleveland-Lili'uokalani agreement. According to Pomeroy:

> "Active or special trusts are those in which, either from the express direction of the language creating the trust, or from the very nature of the trust itself, the trustees are charged with the performance of active and substantial duties with respect to the control, management, and

[38] See Deeds of Trust to the Hawaiian Kingdom Trust Company, a general partnership, Doc. no.'s 96-004246, 96-006277, 96-014116, 96-026387, 96-026388, 96-028714, 96-024845, 96-032930, 96-044551, 96-044550, 96-047382, 96-047380, 96-047379, 96-047381, 96-056981, 96-052727, 96-060519, 96-032728, 96-057667, 96-057668, 96-060520, 96-061209, 96-061207, 96-056980, 96-052729, 96-063384, 96-063385, 96-063382, 96-057664, 96-019923, 96-046712, 96-063386, 96-063382, 96-063383, 96-066996, 96-061208 and 96-046711, State of Hawai'i Bureau of Conveyances.

> disposition of the trust property for the benefit of the *cestui que trustent* [beneficiary of a trust]. They may, except when restricted by statute, be created for every purpose not unlawful, and, as a general rule, may extend to every kind of property, real and personal."[39]

The purpose of HKTC was two fold; first, to ensure PTC complies with the co-partnership statute, and, second, provisionally serve as the government of the Hawaiian Kingdom. What became apparent was the seeming impression of a conflict of interest, whereby the duty to comply and the duty to ensure compliance was vested in the same two partners of the two companies. Therefore, in order to avoid this apparent conflict of interest, the partners of both PTC and HKTC, reasoned that an *acting* Regent, having no interests in either company, should be appointed to serve as representative of the Hawaiian government. Since HKTC assumed to represent the interests of the Hawaiian government in an acting capacity, the trustees would therefore make the appointment. The trustees looked to Article XXXI, Chapter XI, Title 3 of the Hawaiian Civil Code (Annex 29), whereby the *acting* Regency would be constitutionally authorized to direct the executive branch of the government in the formation and execution of the reconvening of the Legislative Assembly, so that the government could procedurally move from provisional to *de jure*.[40]

1. Acting Government Proclaimed on February 28, 1997

It was agreed that David Keanu Sai, now the present Ambassador-at-large of the *acting* Government and Agent for this Protest and Demand, would be appointed to serve as *acting* Regent, but could not retain an interest in the two companies prior to the appointment. In that meeting, it was agreed upon and decided that Nai'a-Ulumaimalu would replace the aforementioned as trustee of HKTC and partner of PTC. The plan was to maintain the standing of the two partnerships under the co-partnership statute, and not have them lapse into sole-proprietorships. To accomplish this, the Agent would relinquish his entire one-half interest by deed of conveyance in both companies to Lewis (Annex 30); after which Lewis would convey a redistribution of interest to Nai'a-Ulumaimalu (Annex 31), whereby the former would hold a ninety-nine percent interest in the two companies and the latter a one percent interest in the same. In order to have these two transactions take place simultaneously without affecting the standing of the two partnerships, both deeds of conveyance would happen on the same day but won't take effect until the following day, February 28,1996. These conveyances were registered in the Bureau of Conveyances in conformity with the 1880 Co-partnership Act.

With the transactions completed, the Trustees then appointed the Agent as *acting* Regent on March 1, 1996, and thereafter filed a notice of this appointment with the Bureau of Conveyances. (Annex 32). Thereafter, HKTC resumed its role as a general partnership within the meaning of the 1880 Co-partnership Act, and no longer served as

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[39] John Norton Pomeroy, *A Treatise on Equity Jurisprudence as Administered in the United States of America* (Bancroft-Whitney Company, 1907), 553.
[40] Compiled Laws, 214-234.

"a company *acting* for and on behalf of the Hawaiian Kingdom government" and prepared for the dissolution of the company. On May 15, 1996, the Trustees conveyed by deed all of its right, title and interest acquired by thirty-eight deeds of trust to the *acting* Regent, and stipulated that the company would be dissolved in accordance with the provisions of its deed of general partnership on June 30, 1996. (Annex 33).

The transfer and subsequent dissolution, was made in accordance with section 3 of the 1880 Co-partnership Act, which provides that "whenever any change shall take place in the constitution of any such firm…a statement of such change or dissolution shall also be filed in the said office of the Minister of the Interior, within one month from such…dissolution."[41] On February 28, 1997, a Proclamation by the *acting* Regent announcing the restoration of the Hawaiian government was printed in the March 9, 1997 issue of the Honolulu Sunday Advertiser newspaper. The proclamation stated, in part, that the:

> "Hawaiian Monarchical system of Government is hereby re-established, [and the] Civil Code of the Hawaiian Islands as noted in the Compiled Laws of 1884, together with the session laws of 1884 and 1886 and the Hawaiian Penal Code are in full force. All Hawaiian Laws and Constitutional principles not consistent herewith are void and without effect."[42] (Annex 34).

Since the appointment of the *acting* Regent, there have been twenty-six commissions that filled vacancies of the executive and judicial departments. These governmental positions, as statutorily provided, comprise officers *de facto* of the Hawaiian government while under American occupation. Governmental positions that are necessary for the reconvening of the Legislative Assembly in accordance with Title III of the Civil Code would be filled by commissioned officers *de facto*.

In September 1999, the *acting* Regent commissioned Peter Umialiloa Sai as *acting* Minister of Foreign Affairs, Kau'i P. Sai-Dudoit, formerly known as Kau'i P. Goodhue, as *acting* Minister of Finance, and Gary V. Dubin, Esquire, as *acting* Attorney General. At a meeting of the Cabinet Council on September 10, 1999, it was determined by resolution "that the office of the Minister of Interior shall be resumed by David Keanu Sai, thereby absolving the office of the Regent, *pro tempore*, and the same to be replaced by the Cabinet Council as a Council of Regency, *pro tempore*, within the meaning of Article 33 of the Constitution of the Country." (Annex 35). The Agent serves as Prime Minister and chairman of the *acting* Council of Regency.[43]

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[41] Compiled Laws, 649.

[42] Proclamation of *Acting* Regent declaring the Hawaiian Monarchical form of Government is re-established, February 28, 1997, published in the March 9, 1997 issue of the Honolulu Sunday Advertiser. Also recorded in its entirety in the Bureau of Conveyances as document no. 97-027541.

[43] After the office of Premier (Prime Minister) was repealed by the 1864 Constitution, the term Prime Minister referred to the person who organized government in the Cabinet Council, whether that person was to be the Minister of the Interior, Minister of Foreign Affairs, Minister of Finance or the Attorney General.

Democratic principles are suspended during occupations. Military government is imposed "either by reason of military necessity as a right under international law, or as an obligation under international law," but regulated by The Hague and Geneva Conventions.[44] The *acting* Regency was not established out of democratic principles, but out of necessity in order to serve as the provisional organ of the Hawaiian Kingdom and represent its interest during the occupation. It serves as a component of a military government yet to be established, and not the sole organ of the occupied State. The legitimacy of the *acting* Regency is derived strictly from law and legal principles of the Hawaiian Kingdom and functions under the limited legal doctrine of necessity. The right of Hawaiian nationals to reinstate their government, by its statutory provisions, is clear and unequivocal under the international principle of the continuity of the occupied State and its legal order.

The Hawaiian government did not foresee the possibility of its territory subjected to prolonged occupation, where indoctrination and the manipulation of its political history affected the psyche of its national population. Therefore, it did not provide a process for reinstating the government, being the organ of the State, either in exile or within its own territory. But at the same time, it did not place any constitutional or statutory limitations upon the restoration of its government that could serve as a bar to its reinstatement—save for the legal parameters of necessity. The legal basis for the reassertion of Hawaiian governance, by and through a Hawaiian general partnership statute, is clearly extraordinary, but the exigencies of the time demanded it. In the absence of any Hawaiian subjects adhering to the statutory laws of the country as provided for by the country's constitutional limitations, the abovementioned process was established for the establishment of an *acting* Regency, pending the reconvening of the Legislative Assembly to elect by ballot a Regent or Regency *de jure* as provided for under Article 22 of the Constitution. Professor Marek emphasizes that:

> "it is always the legal order of the State which constitutes the legal basis for the existence of its government, whether such government continues to function in its own country or goes into exile; but never the delegation of the territorial State nor any rule of international law other than the one safeguarding the continuity of an occupied State. The relation between the legal order of the territorial State and that of the occupied State…is not one of delegation, but of co-existence."[45]

[44] "United States Army and Navy Manual of Military Government and Civil Affairs," *U.S. Army Field Manual 27-5*, 2 (December 22, 1843).
[45] Krystyna Marek, *Identity and Continuity of States in Public International Law*, 2nd ed., (Librairie Droz, 1968), 91.

2. The Doctrine of Necessity Underlies the Legal Basis of the acting Government

Dr. Wolff states, "in so far as conditions provided for in the constitutional law cannot be complied with owing to the occupation of the country by the enemy, a dispossessed government can act without being compelled to fulfill those conditions." [46] Also commenting on exiled governments, Marek explains that, "while the requirement of internal legality must in principle be fulfilled for an exiled government to possess the character of a State organ, minor flaws in such legality are easily cured by the overriding principle of its actual uninterrupted continuity."[47] Oppenheimer also explains "such government is the only *de jure* sovereign power of the country the territory of which is under belligerent occupation."[48] It follows, *a fortiori*, that when an "occupant fails to share power with the lawful government under the auspices of international law, the latter is not precluded from taking whatever countermeasures it can in order to protect its interests during and after the occupation."[49]

Bateman states the "duty correlative of the right of political existence, is obviously that of political self-preservation; a duty the performance of which consists in constant efforts to preserve the principles of the political constitution."[50] Political self-preservation is adherence to the legal order of the State, whereas national self-preservation is where the principles of the constitution are no longer acknowledged, *i.e.* revolution.[51] The establishment of an *acting* Regent—an officer *de facto*, would be a political act of self-preservation, not revolution, and be grounded upon the legal doctrine of limited necessity. According to Professor de Smith, a British constitutional scholar, deviations from a State's constitutional order "can be justified on grounds of necessity."[52] He continues to explain that "State necessity has been judicially accepted in recent years as a legal justification for ostensibly unconstitutional action to fill a vacuum arising within the constitutional order [and to] this extent it has been recognized as an implied exception to the letter of the constitution."[53] Lord Pearce also states that there are certain limitations to the principle of necessity, "namely (a) so far as they are directed to and reasonably required for ordinary orderly running of the State, and (b) so far as they do not impair the rights of citizens under the lawful…Constitution, and (c) so far as they are not intended to and do not run contrary to the policy of the lawful sovereign."[54]

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[46] Ernst Wolff, "The International Position of Dispossessed Governments at Present in England," 6 *Modern Law Review* 215 (1942-1943).
[47] Marek, 98.
[48] Oppenheimer, 568.
[49] Eyal Benvenisti, *The International Law of Occupation* (Princeton University Press, 1993), 212.
[50] William O. Bateman, *Political and Constitutional Law of the United States of America* (G.I. Jones and Company, 1876), 22.
[51] *Id*.
[52] Stanley A. de Smith, *Constitutional and Administrative Law* (Penguin Books, Ltd., 1986), 80.
[53] *Id*.
[54] *Madzimbamuto v. Lardner-Burke* (1969), 1 A.C. 645, 732.

In *Chandrika Persaud v. Republic of Fiji*, Judge Gates took up the matter of the legal doctrine of necessity and drew from the decision in the *Mitchell case*,[55] which provided that the requisite conditions for the principle of necessity consists of:

1. An imperative necessity must arise because of the existence of exceptional circumstances not provided for in the Constitution, for immediate action to be taken to protect or preserve some vital function of the State;

2. There must be no other course of action reasonably available;

3. Any such action must be reasonably necessary in the interest of peace, order, and good government; but it must not do more than is necessary or legislate beyond that;

4. It must not impair the just rights of citizens under the Constitution; and

5. It must not be one the sole effect and intention of which is to consolidate or strengthen the revolution as such.

Professor Brookfield summarized the principle of necessity as the "power of a Head of State under a written Constitution extends by implication to executive acts, and also legislative acts taken temporarily (that is, until confirmed, varied or disallowed by the lawful Legislature) to preserve or restore the Constitution, even though the Constitution itself contains no express warrant for them."[56] Brookfield also explains "such powers are not dependent on the words of a particular Constitution, except in so far as that Constitution designates the authority in whom the implied powers would be found to reside."[57]

The assumption by private citizens up the chain of constitutional authority in government to the office of Regent, as enumerated under Article 33 of the Constitution, is a *de facto* process born out of necessity. Judge Cooley defines a officer *de facto* "to be one who has the reputation of being the officer he assumes to be, and yet is not a good officer in point of law," but rather "comes in by claim and color of right."[58] According to Chief Justice Steere, the "doctrine of a *de facto* officer is said to have originated as a rule of public necessity to prevent public mischief and protect the rights of innocent third parties who may be interested in the acts of an assumed officer apparently clothed with authority and the courts have sometimes gone far with delicate reasoning to sustain the rule where threatened rights of third parties were concerned."[59] Officers *de facto* are distinguished from a *de facto* government. The former is born out of a *de jure* government under and by virtue of the principle of necessity, while the latter is revolutionary.

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[55] *Mitchell v. Director of Public Prosecutions* (1986), L.R.C. (Const) 35, 88–89.
[56] F.M. Brookefield, "The Fiji Revolutions of 1987," *New Zealand Law Journal* 250, 251 (July 1988).
[57] *Id.*
[58] Thomas M. Cooley, *A Treatise on the Law of Taxation* (Callaghan and Company, 1876), 185.
[59] *Carpenter v. Clark*, 217 Michigan 63, 71 (1921).

V. STATEMENT OF THE GROUNDS ON WHICH THE PROTEST AND DEMAND TO THE UNITED NATIONS GENERAL ASSEMBLY IS BASED

The *acting* Government is not seeking *de facto* recognition of the Hawaiian Kingdom, but rather is operating on the *de jure* recognition already afforded the Hawaiian Kingdom since the 19th century. The *acting* Government, as officers *de facto*, is an extension of the original *de jure* government of the Hawaiian Kingdom.

The *acting* Government has represented the Hawaiian Kingdom in arbitral proceedings before the Permanent Court of Arbitration, *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001) (Annex 24).[60] The Arbitral Tribunal in the *Larsen* arbitration comprised of Professor James Crawford, SC, Presiding Arbitrator, who at the same time was a member of the United Nations International Law Commission and *Special Rapporteur* on State Responsibility (1997-2001); Professor Christopher Greenwood, QC, Associate Arbitrator, who now serves as a Judge on the International Court of Justice since February 6, 2009; and Gavan Griffith, QC, Associate Arbitrator, who served as former Solicitor General for Australia. The jurisdictional basis of the Permanent Court of Arbitration in *Larsen v. Hawaiian Kingdom* was a dispute between a State and a private person. The *acting* Government also filed a Complaint against the United States of America with the United Nations Security Council on July 5, 2001.[61]

On December 12, 2000, the day after oral hearings were held at the Permanent Court of Arbitration, a meeting took place in Brussels between Dr. Jacques Bihozagara, Ambassador for the Republic of Rwanda assigned to Belgium, and the Agent and two deputy agents representing the *acting* Government in the *Larsen case*.[62] Ambassador Bihozagara attended a hearing before the International Court of Justice on December 8, 2000, (Democratic Republic of the Congo v. Belgium), where he was made aware of the Hawaiian arbitration case that was also taking place across the hall in the Peace Palace.[63] After inquiring into the case, he called for the meeting and wished to convey that his government was prepared to bring to the attention of the United Nations General Assembly the prolonged occupation of the Hawaiian Kingdom by the United States.

Recalling his country's experience of genocide and the length of time it took for the international community to finally intervene as a matter of international law, Ambassador Bihozagara conveyed to the Agent that the illegal and prolonged occupation of the Hawai'i was unacceptable and should not be allowed to continue. Despite the excitement of the offer, apprehension soon took its hold and the acting government could not, in

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[60] Bederman & Hilbert, "Arbitration—UNCITRAL Rules—justiciability and indispensable third parties—legal status of Hawai'i," 95 *American Journal of International Law* 927-933 (2001).
[61] Patrick Dumberry, "The Hawaiian Kingdom Arbitration Case and the Unsettled Question of the Hawaiian Kingdom's Claim to Continue as an Independent State under International Law," 2(1) *Chinese Journal of International Law* 655-684 (2002); and David Keanu Sai, "A Slippery Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its Use and Practice in Hawai'i today," 10 *Journal of Law and Social Challenges* 68-133 (Fall 2008).
[62] Sai, A Slippery Path, 130-131.
[63] Arrest Warrant of 11 April 2000 (Democratic Republic of the Congo v. Belgium), Provisional Measures, Order of 8 December 2000, I.C.J. Reports 2000, p. 182.

good conscience, accept the offer and put Rwanda in a position of reintroducing Hawai'i's State continuity before the United Nations, when Hawai'i's community, itself, remained ignorant of Hawai'i's profound legal position. The Agent thanked Ambassador Bihozagara for his government's offer, but the timing was premature. The Agent conveyed to the ambassador that the gracious offer could not be accepted without placing Rwanda in a vulnerable position of possible political retaliation by the United States of America, but that the *acting* government should instead focus its attention on continued exposure and education of the occupation both at the national and international levels.

In line with exposure on the international level, the *acting* Government was successful in filing a complaint, as a non-member State, with the United Nations Security Council under the Presidency of China on July 5, 2001.[64] Professor Dumberry, who's article in the Chinese Journal of International Law addressed the complaint, stated, "Article 35(2) of the only grants the right for States which are not members of the United Nations to bring disputes and situations 'to the attention' of the Security Council; it does not oblige the Security Council to actually 'consider' the matter brought to its attention."[65] Despite the Security Council's failure to consider the matter, the complaint, nevertheless, was not challenged nor quashed by the United States of America, but instead, according to Dumberry, "the United States, which is a permanent member of the Security Council, ahs most certainly strongly objected to the inclusion of this Complaint on the agenda, and is likely to have lobbied other States to act in a similar fashion."[66] As the Hawaiian complaint remained procedurally unabated, Russian Ambassador Vitaly Churkin, who served as President of the Security Council, was notified by letter dated March 1, 2008 of the *acting* Government's intent to amend the Hawaiian complaint pursuant to the 2001 *Articles on Responsibility of States for International Wrongful Acts*. (Annex 36).

It is in this capacity, the *acting* Government files this Protest and Demand to bring to the attention of the United Nations General Assembly the prolonged and illegal occupation of the Hawaiian Kingdom.

A. CONCERNING THE VIOLATION OF THE PRINCIPLE THAT A STATE MAY NOT EXERCISE ITS AUTHORITY ON THE TERRITORY OF ANOTHER STATE

The Permanent Court of International Justice acknowledged, "the first and foremost restriction imposed by international law upon a State is that – failing the existence of a permissive rule to the contrary – it may not exercise its power in any form in the territory of another State. In this sense jurisdiction is certainly territorial; it cannot be exercised by a State outside its territory except by virtue of a permissive rule derived from international custom or from a convention."[67] By virtue of the 1893 *Lili'uokalani assignment* of executive power, the President of the United States was temporarily

[64] Dumberry, 671-672.
[65] *Id*., 671.
[66] *Id*., 672.
[67] S.S. Lotus (Fr. v. Turk.), 1927 P.C.I.J. (ser. A) No. 10 (Sept. 7), p. 19.

assigned, under threat of war, the authority to administer Hawaiian law until the government is restored in accordance with the *Agreement of restoration*. After the government has been restored and the executive power reassigned, the Queen, or her successor in office, would thereafter grant amnesty to the insurgents.

While Hawai'i was clearly not a participant in the hostilities of the Spanish-American War, the United States occupied the Hawaiian Islands for the purpose of waging the war against Spain on August 12, 1898, as well as to fortify the islands as a military outpost for the defense of the United States in future conflicts.

The "power exercising effective control within another's sovereign territory has only temporary managerial powers," and during "that limited period, the occupant administers the territory on behalf of the sovereign."[68] The actions taken by the McKinley administration, with the consent of the Congress by joint resolution, clearly intended to mask the violation of international law as if the annexation took place by treaty. As Marek states, "a disguised annexation aimed at destroying the independence of the occupied State, represents a clear violation of the rule preserving the continuity of the occupied State."[69]

Article 6, Lieber Code (1863), regulated U.S. troops during the occupation of the Hawaiian Islands in 1898 and mandated the Commander of U.S. troops to administer the laws of the occupied country, being the civil and penal laws of the Hawaiian Kingdom. Article 6 was superseded by Article 43, 1899 Hague Convention, II (32 U.S. Stat. 1803), and then superseded by Article 43, 1907 Hague Convention, IV (Annex 37). Article 43 of the 1907 Hague Convention, IV, reinforces the 1893 *Lili'uokalani assignment* that mandates the President to provisionally administer the civil and penal laws of the Hawaiian Kingdom. On August 12, 1949, the United States signed and ratified the Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV, of 12 August 1949 (Annex 38). In July 1956, the U.S. Department of the Army published Field Manual 27-10—The Law of Land Warfare.

Article 43 of the 1907 Hague Regulations, delimits the power of the occupant and serves as a fundamental bar on its free agency within an occupied neutral State.[70] Although the United States signed and ratified both Hague Regulations, which post-date the occupation of the Hawaiian Islands, the "text of Article 43," according to Professor Benvenisti, "was accepted by scholars as mere reiteration of the older law, and subsequently the article was generally recognized as expressing customary international law."[71] Professor Graber also states "nothing distinguishes the writing of the period

[68] Benvenisti, 6.
[69] Marek, 110.
[70] The United States signed the 1899 Hague Regulations respecting Laws and Customs of War on Land at The Hague on July 29, 1899 and ratified by the Senate March 14, 1902; *see* 32(1) U.S. Stat. 1803. The 1907 Hague Regulations respecting Laws and Customs of War on Land was signed at The Hague October 18, 1907 and ratified by the Senate March 10th 1908; *see* 36 U.S. Stat. 2277. The United States also signed the 1907 Hague Regulations respecting the Rights and Duties of Neutral Powers at The Hague on October 18, 1907 and ratified by the Senate on March 10th 1908; *see* 36 U.S. Stat. 2310.
[71] Benvenisti, 8.

following the 1899 Hague code from the writing prior to that code.[72] Consistent with this understanding of the international law of occupation during the Spanish-American war, Professor Smith reported that the "military governments established in the territories occupied by the armies of the United States were instructed to apply, as far as possible, the local laws and to utilize, as far as seemed wise, the services of the local Spanish officials."[73] This instruction to U.S. troops during the Spanish-American war to apply the local laws of the occupied State was made pursuant to Article 6 of the Lieber Code.

With specific regard to occupying neutral territory, the Arbitral Tribunal, in *Coenca Brothers vs. Germany* (1927), concluded "the occupation of Salonika by the Allies in the autumn of 1915 constituted a violation of Greek neutrality."[74] Later, in the *Chevreau* case (1931), the Arbitrator concluded that the status of the British forces while occupying Persia (Iran)—a neutral State in the First World War—was analogous to "belligerent forces occupying enemy territory."[75] Professor Oppenheim observes that an occupant State on neutral territory "does not possess such a wide range of rights with regard to the occupied country and its inhabitants as he possesses in occupied enemy territory."[76] Although the Hague Regulations apply only to territory belonging to an enemy, Professor Feilchenfeld states, "it is, nevertheless, usually held that the rules on belligerent occupation will also apply where a belligerent, in the course of the war, occupies neutral territory, even if the neutral power should have failed to protest against the occupation."[77] While Hawai'i was a neutral state at the time of its occupation during the Spanish American war, the law of occupation ought to be not only applied with equal force and effect, but that the occupier would be shorn of its belligerent rights in Hawaiian territory as a result of Hawai'i's neutrality and the obligations incurred under the 1893 *Lili'uokalani assignment* and the *Agreement of restoration*.

B. CONCERNING THE VIOLATIONS OF TREATIES AND INTERNATIONAL LAW

The Hawaiian Kingdom is a member State of the Universal Postal Union since January 1, 1882, has forty-six (46) State treaty partners, and, to a limited degree, one hundred twenty-seven (127) successor State quasi-treaty partners. In this Protest and Demand, the Hawaiian Kingdom's identification of successor States collectively includes former colonial, mandate or trust territories. This identification is made without any prejudice to the particular rights of each successor States in relation to the mode of exercising self-determination when they achieved their independence.

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[72] Doris Graber, *The Development of the Law of Belligerent Occupation: 1863-1914*, (Columbia University Press 1949), 143.
[73] Munroe Smith, "Record of Political Events," 13(4) *Political Science Quarterly* 748 (Dec. 1898).
[74] *Coenca Brothers v. Germany*, (Greco-German Mixed Arbitral Tribunal, December 1st 1927, case no. 389). Annual Digest of Public International Law Cases, 1927 & 1928, (Longmans, Green and Co., 1931), 571.
[75] "*Chevreau case* (In the Matter of the Claim Madame Chevreau Against the United Kingdom)," 27 *American Journal of International Law* 160 (1933).
[76] Lassa Oppenheim, *International Law*, 7th ed., (David McKay Co. 1948-52), 241.
[77] Ernst Feilchenfeld, *The International Economic Law of Belligerent Occupation* (Carnegie Endowment for International Peace 1942), 8.

According to Professor Oppenheim, "there is room for the view that in case of separation resulting in the emergence of a new State the latter is bound by—or at least entitled to accede to—general treaties of a 'law-making' nature, especially those of a humanitarian character."[78] Beato explains, "contrary to conventional law's clean slate doctrine, relatively few newly independent states renounce all of their predecessor state's treaties. Instead, new states tend to adopt a pragmatic approach which balances issues of self-determination and sovereignty in foreign affairs against the need to foster stability in international relations."[79] Professor Hershey states that it "is generally agreed that the purely local or personal rights and obligations of the [predecessor State]…remain with the [successor State]."[80] Treaty obligations to private individuals survive the succession and bind the successor State.[81]

Provisions of these treaties not only protect the private rights and obligations of the citizenry of the predecessor States and their successor States while within the territory of the Hawaiian Kingdom, but also protect the private rights and obligations of the citizenry of the Hawaiian Kingdom while within the territories of the predecessor States and their successor States. This rule stems from the principle of international law that change in sovereignty does not affect the private rights of individuals.

Currently, forty-six (46) member States stand in violation of treaties with the Hawaiian Kingdom and international law, and one hundred twenty-seven (127) successor States stand in violation, to a lesser degree, to certain provisions of their predecessor States' treaties that are private in nature and not public.

1. Austria/Hungary—Treaty of Friendship, Commerce and Navigation

On June 18, 1875, a Treaty was signed between Austria-Hungary and the Hawaiian Kingdom in London and thereafter ratified by both governments (Annex 39). Article IV of this treaty provides:

> "the Citizens of each high contracting Parties when resident in the territory of the other shall enjoy the most constant and complete protection for their persons and property, and for this purpose they shall have free and easy access to the Courts of Justice, provided by law, in pursuit and defense of their rights. They shall be at liberty to employ lawyers, advocates or Agents to prosecute or defend their rights before such Courts of Justice. In fact they shall enjoy in

[78] See Oppenheim, *International Law* (1955), vol. 1, p. 167. See also Fenwick, *International Law*, p. 153.
[79] Andrew M. Beato, "Newly Independent and Separating States' Succession to Treaties," 9(2) *American University Journal of International Law & Policy* (1994): 525-558, 544.
[80] Amos. S. Hershey, "The Succession of States," 5(2) *American Journal of International Law* 285-297, 289 (Apr., 1911).
[81] Thos. Baty, "Division of States: Its Effect on Obligations," *Transactions of the Grotius Society, Vol. 9, Problems of Peace and War, Papers Read before the Society in the year 1923* (1923), 119-129, 125.

> this respect all the rights and privileges which are granted to natives, and shall be subject to the same conditions."

Following the dismemberment of Austria-Hungary into two separate States of Austria and Hungary following the first Word War, Hungary also became a State party with Austria to the 1875 Treaty with the Hawaiian Kingdom.

Neither Austria nor Hungary nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XIX of the 1875 Treaty. Therefore this treaty is still in full force, continues to have legal effect to date. Former Austro-Hungarian territories, which acquired their independence from Austria-Hungary, are successor States to, at the very least, Article IV of the Hawaiian-Austro/Hungarian Treaty. Former Austro-Hungarian territories are:

a. Czech Republic. Independence: October 28, 1918.
b. Poland. Independence: November 11, 1918.
c. Slovakia. Independence: Independence: October 28, 1918.

2. Belgium—Treaty of Amity, Commerce and Navigation

On October 4, 1862, a Treaty was signed between Belgium and the Hawaiian Kingdom in Brussels and thereafter ratified by both governments (Annex 40). Article IV of this treaty provides:

> "the respective citizens of the two countries shall enjoy the most constant and complete protection for their persons and property. Consequently they shall have free and easy access to the court of justice in the pursuit and defense of their rights in every instance and degree of jurisdiction established by the laws."

Neither Belgium nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XXVII of the 1862 Treaty. Therefore this treaty is still in full force and continues to have legal effect to date. Former Belgian territories, which acquired their independence from Belgium, are successor States to, at the very least, Article IV of the Hawaiian-Belgian Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Belgian territories are:

a. Democratic Republic of the Congo. Independence: June 30, 1960.
b. Burundi. Independence from Belgian Trusteeship on July 1, 1962
c. Rwanda. Independence from Belgian Trusteeship on July 1, 1962

3. Denmark—Treaty of Friendship, Commerce and Navigation

On October 19, 1846, a Treaty was signed between Denmark and the Hawaiian Kingdom in Honolulu and thereafter ratified by both governments (Annex 41). Article II of this treaty provides:

> "the subjects of His Majesty the King of Denmark, residing within the dominions of the King of the Hawaiian Islands, shall enjoy the same protection in regard to their civil rights as well as to their persons and properties, as native subjects; and the King of the Hawaiian Islands engages to grant to Danish subjects the same rights and privileges which now are, or may hereafter be, granted to or enjoyed by any other foreigners, subjects of the most favored nation."

Neither Denmark nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the principles of customary international law. Therefore, this treaty is still in full force and continues to have legal effect to date. Former Danish territories, which acquired their independence from Denmark, are successor States to, at the very least, Article II of the Hawaiian-Danish Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. A former Danish territory is:

a. Iceland. Independence: June 7, 1944.

4. France—Treaty of Friendship, Commerce and Navigation

On October 29, 1857, a third Treaty was signed between France and the Hawaiian Kingdom in Honolulu and thereafter ratified by both governments (Annex 42). Article IV of this treaty provides:

> "their respective subjects shall enjoy, in both States, a constant and complete protection for their persons and properties. They shall, consequently, have free and easy access to the tribunals of justice, in prosecution and defense of their rights, in every instance, and in all the degrees of jurisdiction established by the laws."

Neither France nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XXVI of the 1857 Treaty. Therefore this treaty is still in full force and continues to have legal effect to date. Former French territories, which acquired their independence from France, are successor States to, at the very least, Article IV of the Hawaiian-French Treaty with regard to the citizenry

of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former French territories, which includes mandate territories, are:

a. Algeria. Independence: July 5, 1962.
b. Benin. Independence: August 1, 1960.
c. Burkina Faso. Independence: August 5, 1960.
d. Central African Republic. Independence: August 13, 1960.
e. Chad. Independence: August 11, 1960.
f. Comoros. Independence: July 6, 1975.
g. Congo. Independence: August 15, 1960.
h. Côte D'Ivoire. Independence: August 7, 1960.
i. Djibouti. Independence: June 27, 1977.
j. Gabon. Independence: August 17, 1960.
k. Guinea. Independence: October 2, 1958.
l. Lao People's Democratic Republic. Independence: July 19, 1949.
m. Lebanon. Independence from French Mandate: November 22, 1943.
n. Madagascar. Independence: June 26, 1960.
o. Mali. Independence: September 22, 1960.
p. Mauritania. Independence: November 28, 1960.
q. Morocco. Independence: March 2, 1956.
r. Niger. Independence: August 3, 1960.
s. Republic of Cameroon. Independence from French Trusteeship on January 1, 1960.
t. Senegal. Independence: April 4, 1960.
u. Syria. Independence from French Mandate: April 17, 1946.
v. Togo. Independence from French Trusteeship on April 27, 1960.
w. Tunisia. Independence: March 20, 1956.
x. Vanuatu. Independence from France and Great Britain: July 30, 1980.
y. Viet Nam. Independence: September 2, 1945.

5. Germany—Treaty of Friendship, Commerce and Navigation and Consular Convention

On March 25, 1879, a Treaty was signed between Germany and the Hawaiian Kingdom in Berlin and thereafter ratified by both governments and exchanged (Annex 43). Article II of this treaty provides:

> "the subjects and citizens of the two High Contracting Parties may remain and reside in any part of said territories respectively and shall receive and enjoy full and perfect

> protection for their persons and property. They shall have free and easy access to the courts of justice, provided by law, in pursuit and defense of their rights, and they shall be at liberty to choose and employ lawyers, advocates or agents to pursue or defend their rights before such courts of justice; and they shall enjoy in this respect all the rights and privileges as native subjects or citizens."

Neither Germany nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XXVI of the 1879 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date.

6. United Kingdom of Great Britain and Northern Island— Treaty of Friendship, Commerce and Navigation

On July 10, 1851, a Treaty was signed between the United Kingdom and the Hawaiian Kingdom in Honolulu and thereafter ratified by both governments (Annex 44). Article VIII of this treaty provides:

> "the subjects of either of the contracting parties, in the territories of the other, shall receive and enjoy full and perfect protection for their persons and property, and shall have free and open access to the courts of justice in the said countries, respectively, for the prosecution and defense of their just rights..."

Neither Great Britain nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the principles of customary international law. Therefore, this treaty is still in full force and continues to have legal effect to date. Former British territories, which acquired their independence from Great Britain, are successor States to, at the very least, Article VIII of the Hawaiian-British Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former British territories, which includes mandate territories, are:

a. Afghanistan. Independence: August 19, 1919.
b. Antigua and Barbuda. Independence: November 1, 1981.
c. Australia. Independence: January 1, 1901.
d. Bahamas. Independence: July 10, 1973.
e. Bahrain. Independence: August 15, 1971.
f. Bangladesh. Independence from Pakistan on December 16, 1971. Pakistan acquired Independence from Great Britain on August 14, 1947.
g. Barbados. Independence: November 30, 1966.

h. Belize. Independence: September 21, 1981.
i. Bhutan. Independence from India on August 8, 1949. India acquired Independence from Great Britain on August 15, 1947.
j. Botswana. Independence: September 30, 1966.
k. Brunei Darussalam. Independence: January 1, 1984.
l. Cyprus. Independence: August 16, 1960.
m. Dominica. Independence: November 3, 1978.
n. Egypt. Independence: February 28, 1922.
o. Fiji. Independence: October 10, 1970.
p. Gambia. Independence: February18, 1965.
q. Ghana. Independence: March 6, 1957.
r. Grenada. Independence: February 7, 1974.
s. Guyana. Independence: May 26, 1966.
t. India. Independence: August 15, 1947.
u. Iraq. Independence from British Mandate: October 3, 1932.
v. Ireland. Independence: December 6, 1921.
w. Israel. Independence from British Mandate: May 14, 1948.
x. Jamaica. Independence: August 6, 1962.
y. Jordan. Independence from British Mandate: May 25, 1946.
z. Kenya. Independence: December 12, 1963.
aa. Kiribati. Independence: July 12, 1979.
bb. Kuwait. Independence: June 19, 1961.
cc. Lesotho. Independence: October 4, 1966.
dd. Malawi. Independence: July 6, 1964.
ee. Malaysia. Independence: August 31, 1957.
ff. Maldives. Independence: July 26, 1965.
gg. Malta. Independence: September 21, 1964.
hh. Mauritius. Independence: March 12, 1968.
ii. Myanmar. Independence: January 4, 1948.
jj. Namibia. Independence from South African Mandate on March 21, 1990. South Africa acquired Independence from Great Britain on May 31, 1910.
kk. Nauru. Independence from Australia, New Zealand and Great Britain Trusteeship on January 31, 1968. New Zealand acquired Independence from Great Britain on September 26, 1907, and Australia acquired Independence from Great Britain on January 1, 1901.
ll. New Zealand. Independence: September 26, 1907.

mm. Nigeria. Independence: October 1, 1960.
nn. Pakistan. Independence: August 14, 1947.
oo. Papua New Guinea. Independence from Australian Trusteeship on September 16, 1975. Australia acquired Independence from Great Britain on January 1, 1901.
pp. Qatar. Independence: September 3, 1971.
qq. Saint Kitts and Nevis. Independence: September 19, 1983.
rr. Saint Lucia. Independence: February 22, 1979.
ss. Saint Vincent and the Grenadines. Independence: October 27, 1979.
tt. Samoa. Independence from New Zealand Trusteeship on January 1, 1962. New Zealand acquired Independence from Great Britain on September 26, 1907.
uu. Seychelles. Independence: June 29, 1976.
vv. Sierra Leone. Independence: April 27, 1961.
ww. Singapore. Independence from Malaysia on August 9, 1965. Malaysia acquired Independence from Great Britain on August 31, 1957.
xx. Solomon Islands. Independence: July 7, 1978.
yy. Somalia. Independence: June 26, 1960.
zz. South Africa. Independence: May 31, 1910.
aaa. South Sudan. Independence from Sudan on July 9, 2011. Sudan acquired Independence from Great Britain on January 1, 1956.
bbb. Sri Lanka. Independence: February 4, 1948.
ccc. Sudan. Independence: January 1, 1956.
ddd. Swaziland. Independence: September 6, 1968.
eee. Tonga. Independence: June 4, 1970.
fff. Trinidad and Tobago. Independence: August 31, 1962.
ggg. Tuvalu. Independence: October 1, 1978.
hhh. Uganda. Independence: October 9, 1962.
iii. United Arab Emirates. Independence: December 2, 1971.
jjj. United Republic of Tanzania. Tanganyika became independent on December 9, 1961 from British Trusteeship; Zanzibar became independent on December 19, 1963; Tanganyika united with Zanzibar on April 26, 1964 to form the United Republic of Tanganyika and Zanzibar; renamed United Republic of Tanzania.

kkk. Vanuatu. Independence from both France and Great Britain on July 30, 1980.
lll. Zambia. Independence: October 24, 1964.
mmm. Zimbabwe. Independence: April 18, 1980.

7. Italy—Treaty of Amity, Commerce and Navigation

On July 22, 1863, a Treaty was signed between Italy and the Hawaiian Kingdom in Paris and thereafter ratified by both governments (Annex 45). Article IV of this treaty provides:

> "the respective citizens of the two countries shall enjoy the most constant and complete protection for their persons and property. Consequently, they shall have free and easy access to the courts of justice in the pursuit and defense of their rights, in every instance and degree of jurisdiction established by the laws."

Neither Italy nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XXVII of the 1863 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date. Former Italian territories, which acquired their independence from Italy, are successor States to, at the very least, Article IV of the Hawaiian-Italian Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Italian territory is:

a. Libya. Independence: December 24, 1951.

8. Japan—Treaty of Amity and Commerce

On August 19, 1871, a Treaty was signed between Japan and the Hawaiian Kingdom in the city of Yedo and thereafter ratified by both governments (Annex 46). Article II of this treaty provides:

> "the subjects of each of the two high contracting parties, respectively, shall have the liberty freely and securely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, where trade with other nations is permitted; they may remain and reside in any such ports, and places respectively, and hire and occupy houses and warehouses, and may trade in all kinds of produce, manufactures and merchandise of lawful commerce, enjoying at all times the same privileges as may have been, or may hereafter be granted to the citizens or subjects of any other nation, paying at all times such duties and taxes as may be exacted from the citizens or subjects of

> other nations doing business or residing within the territories of each of the high contracting parties."

Neither Japan nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article VI of the 1871 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date. Former Japanese territories, which acquired their independence from Japan, are successor States to, at the very least, Article II of the Hawaiian-Japanese Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Japanese territories are:

d. North Korea. Independence: August 15, 1945.
e. South Korea. Independence: August 15, 1945.

9. Netherlands—Treaty of Friendship, Commerce and Navigation

On October 16, 1862, a Treaty was signed between the Netherlands and the Hawaiian Kingdom in The Hague and thereafter ratified by both governments (Annex 47). Article II of this treaty provides:

> "the respective subjects of the two high contracting parties shall be perfectly and in all respects assimilated on their establishment and settlement, whether for a longer or shorter time in the States and Colonies of the other party on the terms granted to the subjects of the most favored nation in all which concerns the permission of sojourning, the exercise of legal professions, imposts, taxes, in a word, all the conditions relative to sojourn and establishment."

Neither the Netherlands nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article VI of the 1862 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date. Former Dutch territories, which acquired their independence from the Netherlands, are successor States to, at the very least, Article II of the Hawaiian-Dutch Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Dutch territories are:

a. Indonesia. Independence: August 17, 1945.
b. Suriname. Independence: November 25, 1975.

10. Portugal—Treaty of Friendship and Commerce

On May 5, 1882, a Provisional Convention was signed between Portugal and the Hawaiian Kingdom in Lisbon and thereafter ratified by both governments (Annex 48). Article I of this convention provides:

> "the Consular Agents, the subjects, the ships and products of the soil, or of the industry of one of the two countries, will enjoy on the territory of the other the same exemptions, privileges, and immunities which other Consular Agents, subjects, ships and products of the soil, or of the industry of the most favored nation, enjoy."

Neither Portugal nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this Provisional Convention in accordance with the principles of customary international law. Therefore, this Portuguese Provisional Convention is still in full force and continues to have legal effect to date. Former Portuguese territories, which acquired their independence from Portugal, are successor States to, at the very least, Article I of the Hawaiian-Portuguese Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Portuguese territories are:

a. Angola. Independence: November 11, 1975.
b. Cape Verde. Independence: July 5, 1975.
c. Guinea-Bissau. Independence: September 24, 1973.
d. Mozambique. Independence: June 25, 1975.
e. Sao Tome and Principe. Independence: July 12, 1975.
f. Timor-Leste. Independence: November 28, 1975. May 20, 2002 is the official date of international recognition of Timor-Leste's independence from Indonesia.

11. Russia—Treaty of Commerce and Navigation

On June 19, 1869, a Treaty was signed between Russia and the Hawaiian Kingdom in Paris and thereafter ratified by both governments (Annex 49). Article II of this treaty provides:

> "the subjects of His Majesty the Emperor of all the Russias, and the subjects of His Majesty the King of the Hawaiian Islands, shall be treated reciprocally on the footing of the most favored nation."

Neither Russia nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the principles of customary international law. Therefore, this treaty is still in full force and continues to have legal effect to date. Former Russian territories, which acquired their independence from Russia, are successor States to, at the very least, Article II of the Hawaiian-Russian Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Russian territories are:

a. Armenia. Independence: September 23, 1991.
b. Azerbaijan. Independence: August 30, 1991.
c. Belarus. Independence: August 25, 1991.
d. Finland. Independence: December 6, 1917.
e. Georgia. Independence: April 9, 1991.
f. Kazakhstan. Independence: December 6, 1991.
g. Kyrgyzstan. Independence: August 31, 1991.
h. Latvia. Independence: August 21, 1991.
i. Lithuania. Independence: March 11, 1990.
j. Republic of Moldova. Independence: August 27, 1991.
k. Tajikistan. Independence: September 9, 1991.
l. Turkmenistan. Independence: October 27, 1991.
m. Ukraine. Independence: August 24, 1991.
n. Uzbekistan. Independence: August 31, 1991.

12. Spain—Treaty of Peace and Friendship

On October 29, 1863, a Treaty was signed between Spain and the Hawaiian Kingdom in London and thereafter ratified by both governments (Annex 50). Article IV of this treaty provides:

> "the respective citizens of the two countries shall enjoy the most constant and complete protection for their persons and property. Consequently, they shall have free and easy access to the courts of justice in the pursuit and defense of their rights, in every instance and degree of jurisdiction established by the laws."

Neither Spain nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XXVII of the 1863 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date day. Former Spanish territories, which acquired their independence from Spain, are successor States to, at the very least, Article IV of the Hawaiian-Spanish Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former Spanish territories are:

a. Cuba. Independence: May 20, 1902.
b. Equatorial Guinea. Independence: October 12, 1968.

13. Switzerland—Treaty of Friendship, Establishment and Commerce

On July 20, 1864, a Treaty was signed between the Swiss Confederation and the Hawaiian Kingdom in Berne and thereafter ratified by both governments (Annex 51). Article III of the treaty provides:

> "the citizens of each of the contracting parties shall enjoy on the territory of the other the most perfect and complete protection for their persons and their property. They shall in consequence have free and easy access to the tribunals of justice for their claims and the defense of their rights, in all cases and in every degree of jurisdiction established by the law."

Neither the Swiss Confederation nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XIII of the 1864 Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Therefore, this treaty is still in full force and continues to have legal effect to date.

14. Sweden and Norway—Treaty of Friendship, Commerce and Navigation

On July 1, 1852, a Treaty was signed between Sweden and Norway and the Hawaiian Kingdom in Honolulu and thereafter ratified by both governments (Annex 52). Article II of the treaty provides:

> "there shall be between all the dominions of His Swedish and Norwegian Majesty, and the Hawaiian Islands, a reciprocal freedom of commerce. The subjects of each of the two contracting parties, respectively, shall have liberty freely and securely to come with their ships and cargoes to all places, ports and rivers in the territories of the other, where trade with other nations in permitted. They may remain and reside in any part of the said territories, respectively, and hire and occupy houses and warehouses and my trade, by wholesale or retail, in all kinds of produce, manufactures or merchandise of lawful commerce, enjoying the same exemptions and privileges as native subjects, and subject always to the same laws and established customs as native subjects."

Following the separation of Austria-Hungary into two separate States, both States remained parties to the 1852 Treaty with the Hawaiian Kingdom. Neither Norway nor Sweden nor the Hawaiian Kingdom gave notice to the other of their intentions to

terminate this treaty in accordance with the terms of Article XVII of the 1852 Treaty. Therefore, the treaty is still in full force and continues to have legal effect to date.

15. United States of America—Treaty of Friendship, Commerce and Navigation

On December 20, 1849, the Treaty between the United States of America and the Hawaiian Kingdom was concluded and signed in Washington, D.C. Ratifications by both countries were exchanged in Honolulu on the Island of O'ahu, on August 24, 1850. (Annex 6). Article VIII of the treaty provides:

> "...each of the two contracting parties engages that the citizens or subjects of the other residing in their respective States shall enjoy their property and personal security in as full and ample manner as their own citizens or subjects, or the subjects or citizens of the most favored nation, but subject always to the laws and statutes of the two countries, respectively."

In addition, Article XVI of the said treaty provides that any:

> "...citizen or subject of either party infringing the articles of this treaty shall be held responsible for the same, and the harmony and good correspondence between the two governments shall not be interrupted thereby, each party engaging in no way to protect the offender, or sanction such violation."

Neither the United States nor the Hawaiian Kingdom gave notice to the other of its intention to terminate this treaty in accordance with the terms of Article XVI of the 1849 Treaty. Therefore, this treaty is still in full force and continues to have legal effect to date. Former United States territories, which acquired their independence from the United States, are successor States to, at the very least, Article VIII of the Hawaiian-American Treaty with regard to the citizenry of the successor State that effectively replaced the citizenry of the predecessor State in the treaty. Former United States territories are:

a. Federated States of Micronesia. Independence from American trusteeship on November 3, 1986.
b. Marshall Islands. Independence from American trusteeship on October 21, 1986.
c. Palau. Independence from American trusteeship on October 1, 1994.
d. Philippines. Independence: July 4, 1946.

16. United States of America—1907 Hague Convention, IV, respecting Laws and Customs of War on Land

The United States of America signed at The Hague Convention, IV, on October 18, 1907 and ratified by the Senate March 10, 1908 (Annex 37). This treaty is still in full force and continues to have legal effect to date and binds the United States of America to administer the laws of the Hawaiian Kingdom. Article 43 of the treaty provides:

> "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"

Article 55 of the treaty also provides:

> "The occupying State shall be regarded only as administrator and usufructuary of public buildings, real estate, forests, and agricultural estates belonging to the hostile State, and situated in the occupied country. It must safeguard the capital of these properties, and administer them in accordance with the rules of usufruct."

17. United States of America—1907 Hague Convention, V, respecting the Rights and Duties of Neutral Powers

The United States of America also signed the 1907 Hague Regulations respecting the Rights and Duties of Neutral Powers at The Hague on October 18, 1907 and ratified by the Senate on March 10, 1908. (Annex 53). This treaty is still in full force and continues to have legal effect to date and binds the United States of America to respect the neutrality of the Hawaiian Kingdom. Article 1 of the treaty provides:

> "The territory of neutral Powers is inviolable."

Article 2 of the treaty provides:

> "Belligerents are forbidden to move troops or convoys of either munitions of war or supplies across the territory of a neutral Power."

Article 3 of the treaty provides:

> "Belligerents are likewise forbidden to: (a) Erect on the territory of a neutral Power a wireless telegraphy station or other apparatus for the purpose of communicating with

> belligerent forces on land or sea; (b) Use any installation of this kind established by them before the war on the territory of a neutral Power for purely military purposes, and which has not been opened for the service of public messages."

Article 4 of the treaty provides:

> "Corps of combatants cannot be formed nor recruiting agencies opened on the territory of a neutral Power to assist the belligerents."

18. Foreign Consulates Unlawfully Established within the territory of the Hawaiian Kingdom

The United States of America has accredited thirty-four (34) foreign Consulates that are unlawfully maintained within the territory of the Hawaiian Kingdom in violation of international law and Hawaiian law, to wit:

(1) CONSULATE OF AUSTRALIA
Consul General Scott Dewar
1000 Bishop Street, P.H.
Honolulu, Hawai'i 96813-4299

(2) CONSULATE OF BELGIUM
Honorary Consul Jeffrey Lau
707 Richards Street, Suite 600
Honolulu, Hawai'i 96813-4693

(3) CONSULATE OF BRAZIL
Honorary Consul Eric Crispin
745 Fort Street Mall, Suite 1450
Honolulu, Hawai'i 96813

(4) CONSULATE OF CHILE
Honorary Consul Gladys Vernoy
2240 Kuhio Avenue, P.H. 3804
Honolulu, Hawai'i 96815-2820

(5) CONSULATE OF CZECH REPUBLIC
Honorary Consul Ann Ching
591 Paikau Street
Honolulu, Hawaii 96816

(6) CONSULATE OF DENMARK
Honorary Consul Claus Hansen
1150 Kikowaena St.
Honolulu, Hawai'i 96819-2227

(7) CONSULATE OF FINLAND
Honorary Consul Katja Silveraa
411 Hobron Lane, Suite 808
Honolulu, Hawai'i 96815

(8) CONSULATE OF FRANCE
Honorary Consul Patricia Lee
P.O. Box 22009
Honolulu, Hawaii 96823

(9) CONSULATE OF HUNGARY
Honorary Consul
Katalin Csiszar, Ph.D.
1960 East-West Road, Suite T415
Honolulu, Hawai'i 96822

(10) CONSULATE OF INDIA
Honorary Consul Sheila Watumull
P.O. Box 10905
Honolulu, Hawai'i 96816

(11) CONSULATE OF ITALY
Honorary Consul Michele

(12) CONSULATE OF JAPAN
Consul General Yoshihiko Kamo

Carbone, M.D., Ph.D.
735 Bishop Street, Suite 201
Honolulu, Hawai‘i 96813

1742 Nuuanu Avenue
Honolulu, Hawai‘i 96817-3201

(13) CONSULATE OF KIRIBATI
Honorary Consul William Paupe
95 Nakolo Place
Honolulu, Hawai‘i 96819-1845

(14) CONSULATE OF SOUTH KOREA
Consul General Young Kil Suh
2756 Pali Highway
Honolulu, Hawai‘i 96817-1491

(15) CONSULATE OF LUXEMBOURG
Honorary Consul
Jean-Claude Drui
2176 Lauwiliwili Street, #101
Kapolei, Hawai‘i 96707

(16) CONSULATE OF MARSHALL ISLANDS
Consul General Noda Lojkar
1888 Lusitana Street, Suite 301
Honolulu, Hawai‘i 96813-1518

(17) CONSULATE OF MEXICO
Honorary Consul Andrew Kluger
818 South King Street, #2100
Honolulu, Hawai‘i 96813

(18) CONSULATE OF MICRONESIA
Consul General Akillino Susaia
3049 Ualena Street, Suite 910
Honolulu, Hawai‘i 96819-1999

(19) CONSULATE OF MOROCCO
Honorary Consul M. Jan Rum
1419 Sixteenth Avenue
Honolulu, Hawai‘i 96816

(20) CONSULATE OF THE NETHERLANDS
Honorary Consul Gaylord Tom
745 Fort St. Mall, Suite 702
Honolulu, Hawai‘i 96813-3814

(21) CONSULATE OF NEW ZEALAND
Honorary Consul Peter Lewis
3929 Old Pali Road
Honolulu, Hawai‘i 96817

(22) CONSULATE OF NORWAY
Honorary Consul Nina Fasi
949 Wainiha Street
Honolulu Hawai‘i 96825

(23) CONSULATE OF PERU
Honorary Consul Carlos
Juarez, Ph.D.
1188 Fort Street Mall Suite 305
Honolulu, Hawai‘i 96813-2471

(24) CONSULATE OF THE PHILIPPINES
Consul General Julius Torres
2433 Pali Highway
Honolulu, Hawai‘i 96817-1452

(25) CONSULATE OF POLAND
Honorary Consul Bozena Jarnot
2825 South King Street, Suite 2701
Honolulu, Hawai‘i 96826-3535

(26) CONSULATE OF PORTUGAL
Honorary Consul John Felix, Ph.D.
P.O. Box 240778
Honolulu, Hawai‘i 96824

(27) CONSULATE OF SAN MARINO
Honorary Consul Yukio Takahashi
4615 Kahala Avenue
Honolulu, Hawai‘i 96816-5210

(28) CONSULATE OF SLOVENIA
Admiral R.J. Zlatoper, USN (RET)
900 Fort Street Mall, Suite 920
Honolulu, Hawai‘i 96813

(29) CONSULATE OF SPAIN
Honorary Vice Consul
John Felix, Ph.D.
P.O. Box 240778
Honolulu, Hawai'i 96824

(30) CONSULATE OF SRI LANKA
Honorary Consul Kusuma Cooray
60 North Beretania Street, Suite 410
Honolulu, Hawai'i 96817-4754

(31) CONSULATE OF SWEDEN
Honorary Consul James M. Cribley
737 Bishop Street, Suite 2600
Honolulu, Hawai'i 96813-3283

(32) CONSULATE OF SWITZERLAND
Honorary Consul Theres Ryf Desai
616 Kahiau Loop
Honolulu, Hawai'i 96821-2450

(33) CONSULATE OF THAILAND
Honorary Consul Colin Miyabara
866 Iwilei Road, Suite 201
Honolulu, Hawai'i 96817

(34) CONSULATE OF TONGA
Honorary Consul Annie Kaneshiro
738 Kaheka Street, Suite 306B
Honolulu, Hawai'i 96814-3726

The *Lili'uokalani assignment* did not authorize the U.S. Department of State to accredit foreign Consulates within the territory of the Hawaiian Kingdom. Foreign Consulates can only be accredited in the Hawaiian Islands by exequatur under Hawaiian Kingdom law pursuant to §458, Article X, Chapter VIII, Title 2, Compiled Laws of the Hawaiian Kingdom (Annex 5), which the *Lili'uokalani assignment* calls for the faithful execution by the United States of America.

19. Universal Postal Union—Treaty of Berne

On January 1, 1882, the Hawaiian Kingdom joined the Universal Postal Union as a member State and acceded to the 1874 Treaty of Berne establishing the General Postal Union, which came to be known as the Universal Postal Union. The Hawaiian Kingdom was also a signatory to the *Additional Act to the Universal Postal Union Convention of June 1, 1878*, on March 21, 1885, (Annex 54) together with the other member States of the United Kingdom of Great Britain and Northern Ireland, Germany, United States of America, Argentina, Austria, Hungary, Belgium, Bolivia, Brazil, Bulgaria, Chile, Columbia, Costa Rica, Denmark, Dominican Republic, Egypt, Ecuador, Spain, France, Canada, India, Greece, Guatemala, Haiti, Honduras, Italy, Japan, Liberia, Luxembourg, Mexico, Montenegro, Nicaragua, Paraguay, Netherlands, Peru, Persia (Iran), Portugal, Romania, Russia, El Salvador, Serbia, Sweden, Norway, Switzerland, Thailand, Turkey, Uruguay and Venezuela, was concluded and signed at Lisbon and thereafter ratified and exchanged by the governments.

The Hawaiian Kingdom has provided no notice of termination of its membership and maintains that it is still a member State of the Universal Postal Union. Therefore, the membership is still in full force and continues to have legal effect to date.

20. War Crimes Committed Against Civilian Population

Since April 6, 2012, protests and demands for the commission of war crimes by civilian judges of the State of Hawai'i, being a political subdivision of the United States of America, against civilians who are invoking Hawaiian Kingdom law were sent to Admiral Locklear, Commander of the U.S. Pacific Command, pursuant to Section 495(b), Department of the Army Field Manual 27-10; Hague Convention No. IV, *Respecting the Laws and Customs of War on Land*, 18 October 1907; the Geneva Convention *Relative to the Protection of Civilian Persons in Time of War*, 12 August 1949; and Title 18 U.S.C. §2441(c)(1) (Annex 55). These war crimes are continuing to date.

VI. ADMISSIBILITY OF THE PRESENT PROTEST AND DEMAND

It cannot be sufficiently stressed that conditions laid down under Article 35(2) of the Charter of the United Nations are satisfied.

The HAWAIIAN KINGDOM is a non-member State of the United Nations and the UNITED STATES OF AMERICA, AFGHANISTAN, ALGERIA, ANGOLA, ANTIGUA AND BARBUDA, ARGENTINA, ARMENIA, AUSTRALIA, AUSTRIA, AZERBAIJAN, BAHAMAS, BAHRAIN, BANGLADESH, BARBADOS, BELARUS, BELGIUM, BELIZE, BENIN, BHUTAN, BOLIVIA (PLURINATIONAL STATE OF), BOTSWANA, BRAZIL, BRUNEI DARUSSALAM, BULGARIA, BURKINA FASO, BURUNDI, CAPE VERDE, CENTRAL AFRICAN REPUBLIC, CHAD, CHILE, COLOMBIA, COMOROS, CONGO, COSTA RICA, COTE D'IVOIRE, CUBA, CYPRUS, CZECH REPUBLIC, DEMOCRATIC PEOPLE'S REPUBLIC OF KOREA, DEMOCRATIC REPUBLIC OF THE CONGO, DENMARK, DJIBOUTI, DOMINICA, DOMINICAN REPUBLIC, ECUADOR, EGYPT, EL SALVADOR, EQUATORIAL GUINEA, FIJI, FINLAND, FRANCE, GABON, GAMBIA, GEORGIA, GERMANY, GHANA, GREECE, GRENADA, GUATEMALA, GUINEA, GUINEA-BISSAU, GUYANA, HAITI, HONDURAS, HUNGARY, ICELAND, INDIA, INDONESIA, IRAN (ISLAMIC REPUBLIC OF), IRAQ, IRELAND, ITALY, JAMAICA, JAPAN, JORDAN, KAZAKHSTAN, KENYA, KIRIBATI, KUWAIT, KYRGYZSTAN, LAO PEOPLE'S DEMOCRATIC REPUBLIC, LATVIA, LEBANON, LESOTHO, LIBERIA, LIBYA, LITHUANIA, LUXEMBOURG, MADAGASCAR, MALAWI, MALAYSIA, MALDIVES, MALI, MALTA, MARSHALL ISLANDS, MAURITANIA, MAURITIUS, MEXICO, MICRONESIA (FEDERATED STATES OF), MONTENEGRO, MOROCCO, MOZAMBIQUE, MYANMAR, NAMIBIA, NAURU, NETHERLANDS, NEW ZEALAND, NICARAGUA, NIGER, NIGERIA, NORWAY, PAKISTAN, PALAU, PAPUA NEW GUINEA, PARAGUAY, PERU, PHILIPPINES, POLAND, PORTUGAL, QATAR, REPUBLIC OF CAMEROON, REPUBLIC OF KOREA, REPUBLIC OF MOLDOVA, ROMANIA, RUSSIAN FEDERATION, RWANDA, SAINT KITTS AND NEVIS, SAINT LUCIA, SAINT VINCENT AND THE GRENADINES, SAMOA, SAN MARINO, SAO TOME AND PRINCIPE, SENEGAL, SERBIA, SEYCHELLES, SIERRA LEONE, SINGAPORE, SLOVAKIA, SLOVENIA, SOLOMON ISLANDS, SOMALIA, SOUTH SUDAN, SOUTH AFRICA, SPAIN, SRI LANKA, SUDAN, SURINAME, SWAZILAND, SWEDEN, SWITZERLAND, SYRIAN ARAB REPUBLIC, TAJIKISTAN, THAILAND, TIMOR-LESTE, TOGO, TONGA, TRINIDAD AND TOBAGO, TUNISIA, TURKEY, TURKMENISTAN, TUVALU, UGANDA, UKRAINE, UNITED ARAB EMIRATES, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND, UNITED REPUBLIC OF TANZANIA, URUGUAY, UZBEKISTAN,

VANUATU, VENEZUELA (BOLIVARIAN REPUBLIC OF), VIET NAM, ZAMBIA, and ZIMBABWE are member States of the United Nations.

The HAWAIIAN KINGDOM will withdraw States named in this Protest and Demand, with the exception of the United States of America, when said States shall declare, whether individually or collectively, that they will not recognize as lawful the United States of America's presence and authority within the territory, territorial seas, exclusive economic zone and airspace of the Hawaiian Kingdom according to Article 41(2), *Responsibility of States for International Wrongful Acts* (2001), except for the United States' temporary and limited authority vested by virtue of the 1893 *Lili'uokalani assignment*, Article 43 of the 1907 Hague Convention, IV, and international law.

The HAWAIIAN KINGDOM also reserves the right to present further grounds for its Protest and Demand giving fuller particulars, which it will deposit with the President of the United Nations General Assembly in due course.

David Keanu Sai

ANNEXES

Annex 19: Signature Petition 21,269 signatures Protesting Annexation by the Hawaiian Patriotic League (1897)

Annex 20: United States Congress' *Joint Resolution to provide for annexing the Hawaiian Islands to the United States* (July 7, 1898)

Annex 21: Transcripts of the Secret Session of the United States Senate regarding the occupation of the Hawaiian Islands, May 31, 1898.

Annex 22: United States Congress' *An Act To provide a government for the Territory of Hawai'i* (April 30, 1900)

Annex 23: United States Congress' *An Act To provide for the admission of the State of Hawai'i into the Union* (March 18, 1959)

Annex 24: *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001)

Annex 25: Hawaiian Legislature's *Act to Provide for the Registration of Co-partnership Firms*, 1880

Annex 26: Deed of General Partnership for Perfect Title Company (December 10, 1995)

Annex 27: Deed of General Partnership for the Hawaiian Kingdom Trust Company (December 15, 1995)

Annex 28: Deeds of Trust to the Hawaiian Kingdom Trust Company

Annex 29: Title 3—Legislative Department, Compiled Laws of the Hawaiian Kingdom (1884)

Annex 30: Deed of Conveyance from David Keanu Sai to Donald Lewis (February 27, 1996)

Annex 31: Deed of Conveyance from Donald Lewis to Nai'a Ulumaimalu (February 27, 1995)

Annex 32: Notice of Appointment of *acting* Regent on March 1, 1996, by the Trustees of the Hawaiian Kingdom Trust Company (March 14, 1996)

Annex 33: Deed of Conveyance from the Trustees of the Hawaiian Kingdom Trust Company to David Keanu Sai as *acting* Regent

Annex 34: Newspaper printing of Proclamation of the Restoration of the Hawaiian Kingdom Government by the *acting* Regent on February 28, 1997 (March 9, 1997)

Annex 35: Privy Council Resolution establishing an acting Council of Regency to replace the acting Regent (September 10, 1999)

Annex 36: *Acting* Government Letter to Russian Ambassador Vitaly Churkin, President of the Security Council (March 1, 2008).

Annex 37: *1907 Hague Convention, IV, respecting Laws and Customs of War on Land*

Annex 38: *1949 Geneva Convention Relative to the Protection of Civilian Persons in Time of War, IV*

Annex 39: Austria/Hungary—*Treaty of Friendship, Commerce and Navigation* (June 18, 1875)

Annex 40: Belgium—*Treaty of Amity, Commerce and Navigation* (October 4, 1862)

Annex 41: Denmark—*Treaty of Friendship, Commerce and Navigation* (October 19, 1846)

Annex 42: France—*Treaty of Friendship, Commerce and Navigation* (October 29, 1857)

Annex 43: Germany—*Treaty of Friendship, Commerce and Navigation and Consular Convention* (March 25, 1879)

Annex 44: United Kingdom of Great Britain and Northern Island—*Treaty of Friendship, Commerce and Navigation* (July 10, 1851)

Annex 45: Italy—*Treaty of Amity, Commerce and Navigation* (July 22, 1863)

Annex 46: Japan—*Treaty of Amity and Commerce* (August 19, 1871)

Annex 47: Netherlands—*Treaty of Friendship, Commerce and Navigation* (October 16, 1862)

Annex 48: Portugal—*Treaty of Friendship and Commerce* (May 5, 1882)

Annex 49: Russia—*Treaty of Commerce and Navigation* (June 19, 1869)

Annex 50: Spain—*Treaty of Peace and Friendship* (October 29, 1863)

Annex 51: Switzerland—*Treaty of Friendship, Establishment and Commerce* (July 20, 1864)

Annex 52: Sweden and Norway—*Treaty of Friendship, Commerce and Navigation* (July 1, 1852)

Annex 53: *1907 Hague Convention, V, respecting the Rights and Duties of Neutral Powers*

Annex 54: Universal Postal Union—*Additional Act to the Universal Postal Union Convention of June 1, 1878* (March 21, 1885)

Annex 55: War Crime Protests and Demands communicated with the United States Pacific Command without exhibits