

Strategic Plan of the *acting* Council of Regency



P.O. Box 2194
Honolulu, H.I. 96805-2194
Office: (808) 239-5347
Fax: (808) 239-6212
E-mail: interiorhk@hawaii.rr.com
Website: <http://www.HawaiianKingdom.org>

The Vision of the acting Council of Regency

Article 22 of the 1864 Constitution provides that a successor to the Throne shall *"...be the person whom the Sovereign shall appoint with the consent of the Nobles, and publicly proclaim as such during the King's life."* In 1877, King David Kalakaua, designated Princess Lili'uokalani, with the consent of the Nobles of the Legislative Assembly, as successor to the Throne, and upon his death in 1891, she became Queen; but her ascension would come at a time of political unrest.

In 1887, while the Legislature remained out of session, a minority of subjects of the Hawaiian Kingdom and foreign nationals, which included citizens of the United States, met to organize a takeover of the political rights of the aboriginal Hawaiian population in the Kingdom. These individuals were organized under the name "Honolulu Rifles." On July 1, 1887, these individuals threatened His Majesty King David Kalakaua with bodily harm to accept a new Cabinet Council, and five days later the members of this new cabinet forced a so-called constitution upon the King that would alter the composition of the Legislative Assembly and allow foreign nationals to vote. This new constitution did not obtain the consent or ratification of the Legislative Assembly who had remained adjourned since October 16, 1886. Article 80 of the 1864 Constitution provides:

"Any amendment or amendments to this Constitution may be proposed in the Legislative Assembly, and if the same shall be agreed to by a majority of the members thereof, such proposed amendment or amendments shall be entered on its journal, with the yeas and nays taken thereon, and referred to the next Legislature; which proposed amendment or the next election of Representatives; and if in the next Legislature such proposed amendment or amendments shall be agreed to by two-thirds of all members of the Legislative Assembly, and be approved by the King, such amendment or amendments shall become part of the Constitution of this country."

The Legislative Assembly of 1886 was prevented from reconvening as a result of the extortion of the 1887 Constitution that created a new legislative body. Consequently, there existed no legitimate Nobles in the Legislative Assembly to consent to Her Majesty's successors in 1891 when she ascended to the Throne, as required under Article 22 of the 1864 Constitution.

U.S. intervention in 1893 was directly attributed to Her Majesty's attempt to reinstate the 1864 constitution and for Hawaiian nationals to regain control of its Legislative Assembly. Tragically, these events set the stage for the United States to illegally seize the country in 1898 during the Spanish-American War and militarize the Islands as a U.S. military outpost for the defense of its west coast. Her Majesty died on November 11, 1917, without a successor.

Therefore, in the absence of a Monarch or successor, Article 33 of the Constitution provides for the Cabinet Council to provisionally administer the government in order for the legislative Assembly to be assembled so that a Regent can be elected.

Until a Regent is elected, the Cabinet Council serves as a *temporary* Council of Regency, which is comprised of the Minister of the Interior, the Minister of Foreign Affairs, the Minister of Finance and the Attorney General.

Given the international law doctrine of legal continuity of the Hawaiian Kingdom State, while under an illegal occupation, and the supremacy of its legal order, a general partnership was deliberately organized on December 15, 1995 to “*serve in the capacity of acting for and on behalf the Hawaiian Kingdom government.*” This approach had a two-fold effect. Firstly, the partnership serves as *prima facie* evidence of the partners’ adherence to Hawaiian statutory laws, being a part of the Hawaiian legal order; and secondly, the receptacle for registering general partnerships in the Kingdom, being the Bureau of Conveyances, continues to function today as a government agency.

The name of the partnership was the *Hawaiian Kingdom Trust Company*. Under the 1880 *Act to Provide for the Registration of Co-partnership Firms*, individuals in co-partnership are mandated to register with the office of the Minister of the Interior, by and through the Bureau of Conveyances. Under this statute, the *Hawaiian Kingdom Trust Company* would assume the role of the absentee Minister of the Interior under the principle of *ascension* and *locum tenens*.

On March 1, 1996, the Trustees of the *Hawaiian Kingdom Trust Company* appointed Mr. David Keanu Sai as *acting* Regent to serve in the trust company’s capacity as an *acting* government and assume the *de facto* role of the Council of Regency so that the legal order of the Hawaiian State can be represented both domestically and internationally. Thereafter, the *Hawaiian Kingdom Trust Company* resumed its role as a general partnership within the meaning of the 1880 Co-partnership Act, and no longer served as a company *acting* for and on behalf of the Hawaiian Government. The trust company was dissolved on June 30, 1996.

In September of 1999 the vacancies in the Cabinet Council were filled. The *acting* Regent commissioned Mr. Peter Umialiloa Sai as *acting* Minister of Foreign Affairs, Ms. Kau’i P. Goodhue as *acting* Minister of Finance, and Mr. Gary V. Dubin, Esquire, as *acting* Attorney General. Mr. Dubin is a practicing attorney and has taught criminal law at Harvard Law School.

On September 10, 1999, it was determined by resolution of the Cabinet in Privy Council that the *acting* Regent should resume the office of *acting* Minister of the Interior, and the entire Cabinet Council serve as an *acting* Council of Regency within the meaning of Article 33 of the 1864 Constitution. It was also agreed upon in Privy Council that Mr. David Keanu Sai serve as Chairman of the *acting* Council.

The *acting* Council has since appointed Mr. Alvin Ka’ohu Nishimura as *acting* Chief Justice of the Hawaiian Kingdom Supreme Court and Mr. Allen Kale’iolani Hoe as *acting* 1st Associate Justice. Both men are practicing attorneys and the latter has served as a district court judge for the State of Hawai’i. Mr. Arthur Hoke, Mr. Colin Malani, and Mr. Leland Pa are presently serving as *acting* Marshal, *acting* deputy Marshal and *acting* Sheriff for the Island of Hawai’i, respectively. Mr. Hoke

is a retired captain from the Hawai'i County Police Department, Mr. Malani also serves as a Sergeant in the State of Hawai'i's Sheriff's Department, and Mr. Pa also serves as a patrolman with the Hawai'i County Police Department. Also appointed was Mr. W.D. Mahealani Pai as *acting* Governor for the Island of Hawai'i. Other appointments have been made in addition to those that are pending.

The *acting* Council serves as the *de facto* organ of the Hawaiian Kingdom State. It does not represent any particular group of individuals organized by ethnic origin or by common ideology. The *acting* Council is limited and operates within the framework of Hawaiian domestic law, which is defined by the 1864 constitution and the statutes lawfully enacted by the Legislative Assembly previous to the illegal constitution in 1887.

The *acting* Council conforms itself to the laws of the Hawaiian Kingdom and the Council's maintenance of these laws, both internationally and domestically, provides the only basis of its *de facto* legitimacy. It has no effectiveness and has no direct link to the national population, pending the reconvening of the Legislative Assembly. It is fundamentally tied to the doctrine of legal continuity of the Hawaiian Kingdom State and the supremacy of its legal order as defined by its constitution and statutes.

Article 33 of the 1864 Constitution sets the limits and duties of the *acting* Council of Regency. It provides that in the absence of a Monarch, the Council has the sole authority to reconvene the Legislative Assembly, which is comprised of Nobles who are appointed by the Monarch and Representatives elected by the People.

At present there are no Nobles, due to the absence of a Monarch, to sit together with the Representatives of the People. Therefore, the Legislative Assembly will be initially comprised of Representatives only, until this body can elect a Regent, which will then be capable of appointing Nobles in accordance with section 771 of the Hawaiian Civil Code. Article XXXII of the Code provides the procedure for the election of Representatives from the twenty-five (25) districts of the Kingdom.

Until a census can be done for reapportionment of the Representatives due to dramatic increases in the population, Hawaiian statute presently provides for the following apportionment.

For the Island of Hawai'i, eight (8): One (1) for the district of North Kona, beginning at and including Keahualono, and extending to and including Pu'uohao; One (1) for the district of South Kona, beginning at Pu'uohao and extending to and including Kaheawai; One (1) for the district of Ka'u; One (1) for the district of Puna; Two (2) for the district of Hilo; One (1) for the district of Hamakua; One (1) for the district of Kohala.

For the Island of Maui, seven (7): Two (2) for the district composed of Lahaina, Olowalu, Ukumehame, and Kaho'olawe; One (1) for the district beginning with and including Waihe'e, and extending to and including Honua'ula; One (1) for the district beginning with and including Kahikinui, and extending to and including

Ko'olau; One (1) for the district beginning with and including Hamakualoa, and extending to and including Kula; Two (2) for the districts comprising the Islands of Moloka'i and Lana'i.

For the Island of O'ahu, eight (8): Four (4) for the district of Honolulu, beginning with and including Maunaloa, and extending to and including Moanalua; One (1) for the district composed of Ewa and Wai'anae; One (1) for the district of Waialua; One (1) for the district of Ko'olaupoko; One (1) for the district of Ko'olaupoko.

For the Island of Kaua'i, three (3): One (1) for the district of Waimea, beginning with and including Nualolo, and extending to and including Hanapepe, and also including the Island of Ni'ihau; One (1) for the district of Puna, beginning with and including Wahiawa, and extending to and including Wailua; One (1) for the district of Hanalei, beginning with and including Kapa'a, and extending to and including Awa-awa-puhi.

Preliminary issues to be faced by the *acting* Council before reconvening the Legislative Assembly are:

- Determination of Citizenry while under prolonged occupation;
- Citizenry's lack of knowledge of Hawaiian laws and Civic duties;
- Registration of Voters and their qualifications; and
- Location to convene the Legislative Assembly.

The *acting* Council will not reactivate the entire government, but only those officers in the executive and judicial branches necessary to reconvene the Legislative Assembly. Hawaiian statute provides the guidelines for this process. An *elected* Regent will possess the requisite duty and authority to reactivate the entire executive and judicial branches of government according to statute. Since February 1998 the *acting* Council has initiated the registration of voters.

A Regent serves in the temporary absence of a Monarch. The *acting* Council is of the firm belief that an election of a Monarch as provided under Article 22 of the 1864 Constitution is premature at this time. The election of a Monarch, whether a King or Queen, will be the most important step the Legislative Assembly will undertake. The Monarch is the epitome of Hawaiian sovereignty and must be properly schooled in Hawaiian culture, the arts, language, history and a high degree of political finesse. The Monarch must be above all reproach. Therefore, the Legislative Assembly will have to take up this very important and fundamental issue, and in the mean time, a Regency is perfectly adept to administering the government until a Monarch is elected.

Concomitant to this mandate, the *acting* Council, as the *de facto* organ of the Hawaiian State, must also address the century long occupation of the country by the United States of America. The *acting* Council recognizes the supremacy of the fundamental principles of international law regarding established States and has directed its attention to the United Nations and other appropriate international forums in order to resolve the prolonged occupation of the country.

Summary of Strategic Plan

PHASE I: *Verification of the Hawaiian Kingdom as an independent State and a subject of International Law*

PHASE II: *Exposure of Hawaiian Kingdom Statehood within the framework of international law and the laws of occupation as it affects the realm of politics and economics at both the international and domestic levels*

PHASE II: *Restoration of the Hawaiian Kingdom as an independent State and a subject of International Law*

The Strategic Plan guides the *acting* Council of Regency in the implementation of its *Vision* in a responsible and coherent manner. It is a fundamental and methodical approach toward a situation that has gone unchecked by the international community for over a century and has been allowed to permeate upon a false premise that the Hawaiian Islands were *legally* made a part of the United States of America.

This plan was developed in order to address the century's long occupation that has affected the psyche of the national population and the ignorance of the international community at large. The *acting* Council is guided by the principles of international laws as they relate to established States as well as the domestic and common laws of the Hawaiian Kingdom prior to United States' intervention.

PHASE I: *Verification of the Hawaiian Kingdom as an independent State and a subject of International Law*

Driven by the desire to establish a permanent institution for the settlement of disputes between Nations and to formally codify the Laws of War in the unfortunate event that disputes could not be settled, Czar Nicholas II of Russia called for the first multilateral Peace Conference in August of 1898. During the summer of 1899 the conference convened and was attended by representatives of twenty-six Nations who met at The Hague, Netherlands. As a result, the Permanent Court of Arbitration was established. A subsequent Peace Conference was later convened by Great Britain in 1907 at The Hague, and attended by forty-four Nations that further clarified the role of the Permanent Court of Arbitration. Presently, the Permanent Court of Arbitration shares a seat at the Peace Palace with the United Nations' International Court of Justice. The Permanent Court of Arbitration is an international organization offering a broad range of services for resolving disputes between Nations, as well as disputes between Nations and private parties and those involving intergovernmental organizations. Purely private arbitrations may obtain various types of support and assistance. Cases are brought to the Permanent Court of Arbitration by agreement of the parties.

On November 8, 1999, just four months after the 100th anniversary of the establishment of the Permanent Court of Arbitration at The Hague, Netherlands, international arbitral proceedings were instituted by a Hawaiian national against the Hawaiian Government alleging that his Government is allowing the unlawful imposition of American domestic law within the territorial jurisdiction of the Hawaiian Kingdom over himself. The Arbitral Tribunal, once confirmed by the parties, shall possess the power and the authority to review the facts presented by both parties and issue a conclusion to settle the dispute.

The dispute stems from a federal lawsuit filed in the United States Federal Court, District of Hawaii by a Hawaiian national, Lance Paul Larsen, against the United States Government and the Hawaiian Kingdom Government as co-defendants. Also named in the case as nominal defendants were: the United Nations, France, Denmark, Sweden, Norway, the United Kingdom, Belgium, Netherlands, Italy, Spain, Switzerland, Russia, Japan, Germany, Portugal and Samoa.

In the federal lawsuit, Lance Larsen accused both defendants (United States & the Hawaiian Kingdom) of violating the 1849 Treaty of Commerce, Friendship and Navigation by allowing U.S. domestic law to be imposed within the territorial dominion of the Hawaiian Kingdom over the person of Lance Paul Larsen.

On October 29, 1999, a settlement was reached between representatives for Lance Larsen, and representatives of the Hawaiian Kingdom government, agreeing to dismiss the United States and all nominal Defendants from the lawsuit and stipulate to the Federal Court their intention to settle their dispute under the rules of the Permanent Court of Arbitration. The settlement, subsequently approved by U.S. Federal Judge Samuel King, resulted in a dismissal of the lawsuit and stipulated that

Lance Paul Larsen and the Hawaiian Kingdom submit the case to the Permanent Court of Arbitration for final and binding arbitration.

The Arbitral Tribunal was asked to determine, on the basis of the Hague Conventions IV and V of 18 October 1907, and the rules and principles of international law, whether the rights of the Claimant, Mr. Lance Paul Larsen, under international law as a Hawaiian subject are being violated, and if so, does he have any redress against the Respondent Government of the Hawaiian Kingdom.

Written pleadings were submitted to the Tribunal by the parties; followed by oral hearings on December 7-11, 2000 at the Permanent Court of Arbitration at The Hague, Netherlands. On February 4, 2001, the Tribunal arrived at a decision. The Arbitral Award provided that the Tribunal lacks the necessary jurisdiction in the case due to the non-contentious nature of the dispute between the parties. The Tribunal believed that the dispute between the parties, being an issue of *liability* and not one of a contentious nature, could be better suited for fact-finding commission of inquiry under the auspices of the Permanent Court of Arbitration. The Tribunal also noted if the case was able to proceed under arbitration, the United States of America was deemed a necessary party.

For the purposes of Phase I, the Tribunal *verified* the Hawaiian Kingdom to be an independent State and a subject of international law.

In paragraph 7.4 of the Arbitral Award the Tribunal stated:

“...the Hawaiian Kingdom existed as an independent State recognized as such by the United States of America, the United Kingdom and various other States, including by exchanges of diplomatic or consular representatives and the conclusion of treaties.”

PHASE II: *Exposure of Hawaiian Kingdom Statehood within the framework of international law and the laws of occupation as it affects the realm of politics and economics at both the international and national levels*

In a deliberate move to initiate Phase II and begin the exposure of the prolonged occupation of the Hawaiian Kingdom since the Spanish-American War of 1898, a complaint was filed by the *acting* Council against the United States of America with the United Nations' Security Council on July 5, 2001 at the U.N. headquarters in New York city.

The Complaint was filed in accordance with Article 35(2) of the United Nations Charter, which provides,

"a State which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purpose of the dispute, the obligations of pacific settlement provided in the present Charter."

The Hawaiian Kingdom has requested the Security Council, in accordance with Article 36(1) of the United Nations Charter, to investigate the Hawaiian Kingdom question, in particular, the merits of the complaint, and to recommend appropriate procedures or methods of adjustment.

In the complaint, the Hawaiian Kingdom begins with a preliminary statement concerning its independence by stating,

"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 of 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. As will be described below [complaint], this action constitutes a fundamental breach of Hawaiian State sovereignty and the treaties entered between the Hawaiian Kingdom and the United States, as well as the 1907 Hague Regulations and international law.

The Hawaiian Kingdom acquired the recognition of its independence on December 19, 1842, by the United States of America; April 1, 1843, by the United Kingdom; and by joint proclamation between the United Kingdom and France on November 28, 1843. On May 16, 1854, the Hawaiian Kingdom declared itself a neutral State, and whose neutrality became a provision in divers treaties with other independent States. At the time of recognition of Hawaiian Independence, the Hawaiian Kingdom's government was a constitutional monarchy, and for the next fifty years, it would develop 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..."

Following these preliminary statements is a chronology of events that begins with the United States of America's illegal intervention into the civil affairs of the Hawaiian Kingdom in January of 1893, and its ultimate illegal and prolonged occupation of the Hawaiian Islands since the Spanish American War of 1898.

Regarding the illegal occupation of the Hawaiian Islands, the Complaint states,

"Under the international laws of occupation, more particularly Article 43 of the 1907 Hague Convention IV, the occupying government must establish a system of direct administration of the laws of the country that it's occupying. In other words, the United States government, as an illegally occupying government in the Hawaiian Islands since its unprovoked incursion by its troops on August 13, 1898, was mandated to administer Hawaiian Kingdom law over the territory and not its own, until they withdraw. This is not a mere descriptive assumption by the occupying government, but rather it is the law of occupation.

Instead of establishing a system to administer Hawaiian Kingdom law in 1898, the United States, by its Congress in 1900, created a puppet government. This government, called the Territorial Government of the Hawaiian Islands, would enforce American law throughout the Hawaiian Kingdom. United States President William McKinley appointed the most heinous criminal in the Kingdom, Sanford B. Dole its first governor. Sanford B. Dole, a traitor to the Kingdom, was given authority by a United States President to punish and even put to death any Hawaiian subject or loyalist to the Kingdom who would threaten his so-called authority. United States military bases sprang up throughout the islands and together with the Territorial Government they imposed their rule over Hawaiian nationals. Having lost control over its ports of entry, American citizens unknowingly flocked to the Hawaiian Islands under the false impression that it was lawfully annexed, and soon overwhelmed the population of Hawaiian nationals."

The complaint also outlines the fraud committed by the United States of America before the United Nations when it reported Hawai'i as one of its colonies. The Complaint explains,

"In 1945, the United Nations was created with the United States as one of its charter members. According to its Charter, the United Nations would promote the protection of human rights and establish a process of de-colonization for the people who have not yet attained independence as a nation. United Nations General Assembly Resolution 1514 provides that '...all peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.'

In accordance with Article 73(e) of the United Nations Charter, member States who had colonial possessions were required to report yearly to the Secretary General the status of their colonies in relation to self-determination. It was at this point that the United States committed fraud before this international organization by fraudulently reporting the Hawaiian Islands as a U.S. colony along with Alaska, American Samoa, Guam, Panama Canal Zone, Puerto Rico and the Virgin Islands. The underlying

problem here was that the Hawaiian Kingdom had already achieved independence for the Hawaiian Islands since 1842, and the United States and other members of the Community of States also recognized this independence. Independence, at the time, could not be claimed for the territories of Alaska, American Samoa, Guam, Panama Canal Zone, Puerto Rico nor the Virgin Islands.

This attempt to mask the American occupation of the Hawaiian Kingdom is what forged the creation of the Puppet State of Hawai'i in 1959. In 1959, the American Ambassador to the United Nations reported to the Secretary General that '...since 1946, the United States has transmitted annually to the Secretary General information on the Territory of Hawai'i pursuant to Article 73(e) of the Charter. However, on August 21, 1959 Hawai'i became one of the United States under a new constitution taking effect on that date. In the light of this change in the constitutional position and status of Hawai'i, the United States Government considers it no longer necessary or appropriate to continue to transmit information on Hawai'i under Article 73(e).'

In regard to the continuity of Statehood during occupation Professor Marek, author of Identity and Continuity of State in Public International Law, (1968) states,

'Since the law relating to the continuity of the occupied State is clear and unequivocal, any acts of the occupying power which are not in accordance therewith are clear violations of international law,' and '...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.'

The *acting* Council has designated Mr. David Keanu Sai to serve as Agent for the Hawaiian Government in these international proceedings. He is assisted by Mr. William K. Meheula, esq., as 1st Deputy Agent, and Dr. Matthew Craven, Reader in International Law, from the University of London, SOAS. Also a part of the legal team is a Research Group comprised of Dr. Noenoe Silva, PhD. (Political Science), Dr. Kehau Abad, PhD. (Anthropology), Dr. Guy Kaulukukui, PhD. (Economics), and Dr. Kanalu Young, PhD. (History).

In Phase II the *acting* Council will also concentrate its efforts on research and education in the areas of political and economic impact resulting from prolonged occupation. Through this process, coupled with the international proceedings, a foundation will be established for the implementation of a viable and realistic transition into Phase III, which will take into consideration the political, economical, and social wellbeing of the Hawaiian nation. Information and updates will be posted on the government's website at: <http://www.HawaiianKingdom.org>

PHASE III: *Restoration of the Hawaiian Kingdom as an Independent State and a subject of International Law*

In this Phase the occupation would have ended and the Hawaiian Kingdom would take its place as a restored State amongst the members of the Family of Nations. The Hawaiian Kingdom's *neutrality* and its membership in the Universal Postal Union, since January 1, 1882, would be re-activated, but its future membership in other international organizations, which includes the United Nations, will need to be decided by the *de jure* government.

As a restored State, the Hawaiian Kingdom will possess the following corollaries of State sovereignty.¹

1. a jurisdiction, *prima facie exclusive*, over territory and the permanent population living in the Hawaiian Islands;
2. duty of non-intervention in the area of exclusive jurisdiction of other States; and
3. the dependence of obligations arising from customary law and treaties.

¹ Brownlie, I., *Principles of Public International Law*, 4th Ed., 1990, p. 287.