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July 7, 2025

Lieutenant Colonel Michael Rosner  
91-1387 Saratoga Avenue  
Kapolei, HI 96707  
Email: [michael.i.rosner.mil@army.mil](mailto:michael.i.rosner.mil@army.mil)

*Sent via electronic mail*

Re: Performing Your U.S. Military Duty and Obligation to Establish a Military Government for the Occupied State of the Hawaiian Kingdom

Dear Lieutenant Colonel Rosner:

I am a practicing attorney and I represent Maui Police Detective Kamuela Lanakila Mawae on matters concerning war crimes being committed by the Federal, State of Hawai'i and County governments. On June 3, 2025, I personally went to Attorney General Anne Lopez's office in Honolulu to deliver a letter, on behalf of my client, explaining the circumstances of my client's concern that he may be criminally culpable for war crimes by enforcing American laws in the County of Maui, which I am attaching.

My request of the Attorney General was for her to make public a legal opinion that was formally requested by former State Senator Cross Makani Crabbe by letter dated September 19, 2024, pursuant to HRS §28-3. His question to the Attorney General was: "Considering the two legal opinions by Professor Craven and Professor Lenzerini that conclude the Hawaiian Kingdom continues to exist as a State under international law, which are enclosed with this request, is the State of Hawai'i within the territory of the United States or is it within the territory of the Hawaiian Kingdom?" She was given until June 11, 2025, to make public her legal opinion on this question given the severity of the situation that was brought upon Detective Mawae. In my letter to the Attorney General I stated:

Importantly, you have had former Senator Crabbe's formal request for a legal opinion now going on 8 months. Given the gravity of the situation, you should have promptly provided a legal opinion that the State of Hawai'i exists within the territory of the United States and not the Hawaiian Kingdom. Instead, you've provided no rebuttable evidence that this is United States territory. As an attorney, you understand that a presumption is a rule of law and in the absence of rebuttable evidence to the contrary, the Hawaiian Kingdom as an Occupied State exists.

June 11, 2025 has passed, and the Attorney General has yet to make public that legal opinion providing rebuttable evidence that the Hawaiian Kingdom does not exist and that war crimes are not being committed. For you and all officials and employees of the State of Hawai'i and the four

Counties, the significance of her failure to provide a legal opinion is an acknowledgment that Hawai'i is an occupied State and not the State of Hawai'i, and that war crimes are being committed. The Attorney General is the highest-ranking law officer of the State of Hawai'i and her failure to provide a legal opinion that the State of Hawai'i is within the territory of the United States and not within the territory of the Hawaiian Kingdom is a dereliction of her duty that she owes to all officials and employees of the State of Hawai'i and the Counties.

This is very concerning for my client because he is not only a law enforcement officer and employee of the County of Maui, but he is also the Vice-Chair of the Maui Chapter of the State of Hawai'i Organization of Police Officers Union (SHOPO). Also affected by the dereliction of the Attorney General are SHOPO's collective bargaining agreements. Because collective bargaining agreements are governed by Federal and State of Hawai'i statutes, administrative agency regulations, and American judicial decisions, which all constitutes the war crime of usurpation of sovereignty, the silence by the Attorney General is a recognition that our collective agreements are void because they are a product of war crimes.

The Royal Commission of Inquiry has already published 26 War Criminal Reports since 2002 of State of Hawai'i officials.<sup>1</sup> Of significance, these officials include Governors David Ige and Josh Green, Mayors Derek Kawakami, Mitchell Roth, and Michael Victorino, and Supreme Court Justices Mark Recktenwald, Paula Nakayama, Sabrina McKenna, Richard Pollack, Michael Wilson and Todd Eddins. The Attorney General is also the subject of a war criminal report.

In a book review of *The Royal Commission of War Crimes: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*<sup>2</sup> that was published in the *Polish Journal of Political Science* in 2022, which I am attaching, Anita Budziszewska, a professor of international law at the University of Warsaw, wrote:

Presented next is the genesis and history of the Commission's activity described by its aforementioned Head—Dr. David Keanu Sai. He presents the Commission's activity in detail, by reference to concrete examples; with this part going on to recreate the entire history of the Hawaiian-US relations, beginning with the first attempt at territorial annexation. This thread of the story is supplemented with examples and source texts relating to the recognition of the Hawaiian Kingdom by certain countries (e.g. the UK and France, and taken as evidence of international regard for the integrity of statehood). **Particularly noteworthy here is the author's exceptionally scrupulous analysis of the history of Hawaii and its state sovereignty. No obvious flaws are to be found in the analysis presented.**

She concludes her book review with the following:

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<sup>1</sup> Website of the Royal Commission of Inquiry (<https://hawaiiankingdom.org/royal-commission.shtml>).

<sup>2</sup> David Keanu Sai (ed.), *The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom* (2020) ([https://hawaiiankingdom.org/pdf/Hawaiian\\_Royal\\_Commission\\_of\\_Inquiry\\_\(2020\).pdf](https://hawaiiankingdom.org/pdf/Hawaiian_Royal_Commission_of_Inquiry_(2020).pdf)).

I regard this publication as an exceptionally valuable one that systematises matters of the legal status of the Hawaiian Kingdom, taking up the key issues surrounding the often ignored topic of a difficult historical context occurring between Hawaii and the United States. The issue at stake here has been regenerated synthetically, on multiple levels, with a penetrating analysis of the regulations and norms in international law applying to Hawaii—starting from potential occupied-territory status, and moving through to multi-dimensional issues relating to both war crimes and human rights. **This is one of the few books—if not the only one—to describe its subject matter so comprehensively and completely. I therefore see this work as being of exceptional value and considerable scientific importance. It may serve not only as an academic source, but also a professional source of knowledge for both practicing lawyers and historians dealing with the matter on hand. The ambition of those who sought to take up this difficult topic can only be commended.**

It would clearly appear that the authority of the Royal Commission of Inquiry, established by the Council of Regency in 2019 with its mandate to investigate war crimes and human rights violations, is a legitimate commission of inquiry and whose reports, that have been published on its website, would serve as the evidential basis for prosecution of war criminals. The Attorney General is up against a wall of law and evidence that renders the State of Hawai‘i and its Counties, established by American law, as unlawful and the product of the war crime of usurpation of sovereignty during military occupation.

Dr. Keanu Sai, as Chairman of the Royal Commission of Inquiry, provided me copies of his correspondence to you in letters dated September 16<sup>3</sup> and 23,<sup>4</sup> 2024, October 11, 2024,<sup>5</sup> November 7<sup>6</sup> and 11,<sup>7</sup> 2024, and January 6, 2025.<sup>8</sup> In Dr. Sai’s letter dated November 7, 2024, you were given an explanation as to the circumstances that led to your military duty to transform the State of Hawai‘i into a Military Government. In that letter Dr. Sai wrote:

It is now over a year since the Hawai‘i Army National Guard’s leadership became aware that the war crime of usurpation of sovereignty during military occupation is being committed and that its their duty to put a stop to it by establishing a military government in accordance with U.S. Department of Defense Directive 5100.1, U.S.

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<sup>3</sup> RCI Letter to MG Kenneth Hara (September 16, 2024)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(9.16.24\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(9.16.24).pdf)).

<sup>4</sup> RCI Letter to MG Kenneth Hara (September 23, 2024)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(9.23.24\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(9.23.24).pdf)).

<sup>5</sup> RCI Letter to MG Kenneth Hara (October 11, 2024)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(10.11.24\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(10.11.24).pdf)).

<sup>6</sup> RCI Letter to MG Kenneth Hara (November 7, 2024)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(11.7.24\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(11.7.24).pdf)).

<sup>7</sup> RCI Letter to MG Kenneth Hara (November 11, 2024)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(11.11.24\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(11.11.24).pdf)).

<sup>8</sup> RCI Letter to MG Kenneth Hara (January 6, 2025)  
([https://hawaiiankingdom.org/pdf/RCI\\_Ltr\\_to\\_LTC\\_Rosner\\_\(1.6.25\).pdf](https://hawaiiankingdom.org/pdf/RCI_Ltr_to_LTC_Rosner_(1.6.25).pdf)).

Army Field Manual 6-27—chapter 6, and the law of occupation. Major General Kenneth Hara's willful failure to obey Army regulations, and resulting his dereliction of duty, has led to war criminal reports for the war crime by omission on himself, Brigadier General Stephen Logan, Colonel Wesley Kawakami, Lieutenant Colonel Fredrick Werner, Bingham Tuisamatatele, Jr., Lieutenant Colonel Joshua Jacobs, and Lieutenant Colonel Dale Balsis. As a result, you are, now, the most senior officer in the Army National Guard.

According to the Council of Regency's Operational Plan for Transitioning the State of Hawai'i into a Military Government dated August 14, 2023,<sup>9</sup> the State of Hawai'i and its Counties would continue to exist under the provisional laws of the Hawaiian Kingdom because both do "not run contrary to the express, reason and spirit of the laws of the Hawaiian Kingdom," but it must be as a military government under international law. This gives the State of Hawai'i and its Counties a legal status as the civilian government of the Hawaiian Kingdom that was unlawfully seized by United States troops on January 17, 1893. The State of Hawai'i Department of Law Enforcement, the Hawai'i County Police Department, the Maui Police Department, the Honolulu Police Department, and the Kaua'i County Police Department exist under the provisional laws of the Hawaiian Kingdom as proclaimed by the Council of Regency in 2014, and not by virtue of American laws imposed in the territory of the Occupied State of the Hawaiian Kingdom.

It is my understanding of the Operational Plan that by transforming the State of Hawai'i into a Military Government, you, as the American Theater Commander, will be replacing Governor Josh Green with yourself as Military Governor just as General Douglas MacArthur replaced the head of the Japanese civilian government as Military Governor of the Occupied State of Japan in 1945. Like Japan, all officials and employees would continue to exist except for the State of Hawai'i Legislature and the County Councils, which have been enacting American laws in violation of the law of occupation.

When you perform your duty, law enforcement officers, especially those of Hawaiian ancestry, would greatly benefit from their rights under Hawaiian Kingdom laws. Dr. Sai provided me the following benefits:

Section 67. The following persons shall be exempt from all internal taxes: His Majesty the King; the Diplomatic Agents of Foreign Countries and their Attaches duly made know to the Department of Foreign Affairs. The following persons shall be exempt from personal taxes: All clergymen of any Christian denomination regularly engaged in their vocation; all teachers of youth employed in public or private schools for more than six months of the year; all soldiers in actual service and all volunteer soldiers duly enrolled and actually doing duty. *Act to Consolidate and Amend the Law Relating to Internal Taxes* (1883); 1884 Compiled Laws, p. 131.

4. That a certain portion of the government lands in each island shall be set apart, and placed in the hands of special agents, to be disposed of in lots of from one to fifty acres, in fee-simple, to such natives as may not be otherwise furnished with

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<sup>9</sup> Council of Regency, Operational Plan for Transitioning the State of Hawai'i into a Military Government (August 14, 2023) ([https://hawaiiankingdom.org/pdf/HK\\_Operational\\_Plan\\_of\\_Transition.pdf](https://hawaiiankingdom.org/pdf/HK_Operational_Plan_of_Transition.pdf)).

sufficient land, at a minimum price of fifty cents per acre. *An Act Confirming Certain Resolutions of the King and Privy Council, passed on the 21st day of December, A.D. 1849, Granting to the Common People Allodial Titles for Their Own Lands and House Lots, and Certain Other Privileges* (1850), also known as the *Kuleana Act*. According to the inflation calculator, \$.50 in 1893 is equivalent in purchasing power to \$17.77 in 2025.

Queen's Hospital was established "for relief of indigent, sick, and disabled people of the Hawaiian Kingdom; as well as of such foreigners, and others, as may desire to avail themselves of the same." *Charter of Queen's Hospital* (1859) established by virtue of *An Act to Provide Hospitals for the Relief of Hawaiians in the City of Honolulu and other Localities* (1859).

"The Queen's Hospital is, from the nature of its character, a quasi-public institution. When it was chartered it was provided that all Hawaiians, of native birth, should be treated free of charge. Foreigners were to be treated by payment of fees." George W. Smith, a Trustee of the Queen's Hospital wrote in an editorial, *Honolulu Advertiser* (1900a:2).

The 1886 budget provided \$12,000 for the Queen's Hospital. According to the Charter, the Queen's Hospital would match those funds. According to the inflation calculator, \$12,000.00 in 1886 is equivalent in purchasing power to \$408,254.04 in 2025. Queen's Hospital's annual budget in 1886 was \$816,508.08.

There is no right to bear arms in the Hawaiian Kingdom, which has similar gun laws like Japan. "2. The following persons are hereby declared to be authorized to bear arms, viz: All persons holding official, military or naval rank, either under this government, or that of any nation at peace with this kingdom, when worn for legitimate purposes. Penal Code, *Chapter LIV—To Prevent the Carrying of Deadly Weapons* (1869). Hawaiian law also provides for yearly licensing of firearms for hunting. Assault weapons are not hunting weapons.

Free trade with foreign countries not impeded by the American Jones Act, formally known as the Merchant Marine Act of 1920. Under the Jones Act, foreign goods and products destined for Hawai'i had to offload from foreign ships at designated American ports on the west coast, and then reloaded on ships destined for Hawai'i. Under free trade, as the Hawaiian Kingdom had before American invasion and occupation, Hawaiian ports would be open for foreign goods and products to be off loaded directly and then continue to ports of the United States.

According to customary international law, the Hawaiian Kingdom not only has treaties with Austria, Belgium, Bremen, Denmark, France, Germany, Hamburg, Hungary, Italy, Japan, Luxembourg, Netherlands, Norway, Portugal, Russia, Spain, Switzerland, Sweden, the United Kingdom and the United States, but also with their successor States. Of the 193 Member States of the United Nations, the Hawaiian Kingdom has treaties with 154 of its Member States.

The Hawaiian Kingdom is also a recognized neutral State like Switzerland. As a neutral State, international laws protect its territorial integrity and independence. The territory of states whose neutrality is permanent is inviolable and gives rise to its neutral rights that its territory cannot be violated by belligerents. This neutral right proscribes belligerents from moving their troops across neutral territory or using neutral territory for belligerent purposes. These prohibitions have been codified under articles 2 through 4 of the 1907 Hague Convention V.

Under the provisional laws of the Hawaiian Kingdom taxes for the State of Hawai'i and the Counties would continue so that government service can be maintained. Tax collection by the Internal Revenue Service, however, would cease to be collected in Hawai'i because these taxes are for American government services.

As an employee and Army officer of the State of Hawai'i Department of Defense, Attorney General Lopez has not provided you any legal basis to deny performing your military duty to establish the Military Government of Hawai'i so that war crimes will be put to a stop under the Army doctrine of command responsibility for war crimes. The Army doctrine of command responsibility for war crimes, rooted in international humanitarian law, establishes that military commanders can be held liable for war crimes committed by those under his/her command. Officials and employees of the State of Hawai'i and the Counties come under your command. This responsibility arises when commanders fail to prevent, suppress, or punish such crimes, even if they didn't directly order them. Basically, Army commanders have a duty to ensure their subordinates adhere to the law of war and can be held accountable for failing to meet this obligation. In my letter to Attorney General Lopez, I address the sweeping effect of the war crime of usurpation of sovereignty during military occupation. I stated:

American laws and administrative measures that include Federal, State of Hawai'i, and County laws, constitutes the war crime of usurpation of sovereignty during military occupation. The unlawful imposition of American laws and administrative measures throughout the Hawaiian Islands also serves as a source for the commission of secondary war crimes within the territory of the Occupied State of the Hawaiian Kingdom, i.e. compulsory enlistment, denationalization, pillage, destruction of property, deprivation of fair and regular trial, deporting civilians of the occupied territory, and transferring populations into an occupied territory.

The Attorney General's dereliction of her duty to protect all officials and employees of the State of Hawai'i and the Counties, to include my client, has now compelled him to not only continue to perform his duties as a police officer under the laws of 1893 and the provisional laws of the Hawaiian Kingdom, but to also call for the lawful transformation of the State of Hawai'i into a Military Government according to the Council of Regency's Operational Plan. It is your military duty, as the most senior commander in the Hawai'i Army National Guard, to immediately transform the State of Hawai'i into a Military Government in accordance with international humanitarian law, the law of occupation, U.S. Department of Defense Directive 5100.01, and Army regulations, so that the war crime of *usurpation of sovereignty during military occupation* would cease and that Hawaiian Kingdom laws, together with the provisional laws, will be administered. I am also aware that Lieutenant Colonel Lloyd Phelps is the Army National Guard's

Staff Judge Advocate to advise you as to your military duties as the theater commander of the Occupied State of the Hawaiian Kingdom.

This matter has nothing to do with politics, but rather it is a matter of black letter law and indisputable facts. As the Hawaiian Kingdom Supreme Court stated in *Shillaber v. Waldo et al.*:

For I trust that the maxim of this Court ever has been, and ever will be, that which is so beautifully expressed in the Hawaiian coat of arms, namely, “The life of the land is preserved by righteousness.” We know of no other rule to guide us in the decision of questions of this kind, than the supreme law of the land, and to this we bow with reverence and veneration, even though the stroke fall on our own head. In the language of another, “Let justice be done though the heavens fall.” Let the laws be obeyed, though it ruin every judicial and executive officer in the Kingdom. Courts may err. Clerks may err. Marshals may err—they do err in every land daily; but when they err let them correct their errors without consulting pride, expediency, or any other consequence.<sup>10</sup>

We look forward to the performance of your sworn U.S. military duty.

Respectfully,



Edward Halealoha Ayau  
Attorney-at-Law  
For Maui Police Detective Kamuela Lanakila Mawae

Attachment:

- (1) Letter to Attorney General Anne Lopez, June 3, 2025
- (2) Book Review by Anita Budziszewska of *The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*, Polish Journal of Political Science (2022)

Copied to:

Dr. Keanu Sai, *Head of the Royal Commission of Inquiry*  
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<sup>10</sup> *Shillaber v. Waldo et al.*, 1 Hawaii Reports 31, 32 (1847).



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June 3, 2025

Attorney General Anne E. Lopez  
State of Hawai'i Department of the Attorney General  
425 Queen Street  
Honolulu, HI 96813

Aloha Attorney General Lopez:

On June 15, 2022, my client, Detective Kamuela Lanakila Mawae of the Maui Police Department, along with fellow police officer, Patrolman Scott McCalister, made a request for legal services to Corporation Counsel regarding the existence of the Hawaiian Kingdom as an occupied State as stated in the federal lawsuit *Hawaiian Kingdom v. U.S. and the State of Hawaii*, Case No: 1:21-cv-00243. The letter stated:

We are humbly requesting that either Chief John Pelletier or Deputy Chief Charles Hank III formally request legal services from Corporation Counsel to conduct a legal analysis of Hawai'i's current political status considering International Law and to assure us, and the rest of the Police Officers throughout the State of Hawai'i, that we are not violating international law by enforcing U.S. domestic laws within what the federal lawsuit calls the Hawaiian Kingdom that continues to exist as a nation state under international law despite its government being overthrown by the United States on 01/17/1893.

On July 13, 2022, Chief John Pelletier made a formal request for legal services that included the aforementioned letter as a priority request within 10 working days. On July 15, Corporation Counsel responded with "Thank you for forwarding this letter. We will keep it on file. There is no need for any MPD personell [sic] to respond to the request." I am attaching both the request and response. My client saw this response by Corporation Counsel as an evasion of the subject given the severity of the request.

In a letter dated May 29, 2024, to Major General Kenneth Hara, my client joined thirty-six other police officers, both active and retired, that called upon him to comply with the law of occupation and perform his duty to transform the State of Hawai'i into a Military Government. The letter stated:

It is deeply troubling that the State of Hawaii has not been transitioned into a military government as mandated by international law. This failure of transition places current police officers on duty that they may be held accountable for unlawfully enforcing American laws. This very issue was brought to the attention



of the Maui County Corporation Counsel by Maui Police Chief John Pelletier in 2022.

...

We also acknowledge that the Council of Regency is our government that was lawfully established under extraordinary circumstance, and we support its effort to bring compliance with the law of occupation by the State of Hawai‘i, on behalf of the United States, which will eventually bring the American occupation to a close. When this happens, our Legislative Assembly will be brought into session so that Hawaiian subjects can elect a Regency of our choosing. The Council of Regency is currently operating in an acting capacity that is allowed under Hawaiian law.

We urge you to work with the Council of Regency in making sure this transition is not only lawful but is done for the benefit of all Hawaiian subjects. Please consider the gravity of this situation and take immediate action to establish a military government in Hawaii. Such a measure would align with international law and demonstrate a commitment to justice, fairness, and the recognition of the rights of Native Hawaiians.

I was made aware by the Royal Commission of Inquiry’s War Criminal Report No. 24-0001,<sup>1</sup> in which you instructed Major General Hara to ignore calls to perform his duty to establish a military government in the occupied State of the Hawaiian Kingdom (p. 29). This resulted in the Royal Commission of Inquiry’s investigation and report that found Major General Hara guilty of committing the war crime by omission for willful failure to establish a military government.

In addition, I am aware that former State Senator Cross Makani Crabbe made a formal request of you for a legal opinion dated September 19, 2024, to address the legal status of the State of Hawai‘i, which I am attaching. In his 2024 letter to you, former Senator Crabbe wrote:

As a Senator that represents the 22nd district, I am very concerned of these allegations that the State of Hawai‘i, as a governing body, is not legal because the Hawaiian Kingdom continues to exist as an occupied State under international law. I am also not aware of any legal opinion that conclusively explains that the State of Hawai‘i is legal under international law and that war crimes are not being committed in Hawai‘i.

Therefore, I am respectfully requesting of you a legal opinion, in accordance with Hawai‘i Revised Statutes §28-3 which states, “The attorney general shall, when

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<sup>1</sup> *Royal Commission of Inquiry, War Criminal Report no. 24-0001—Kenneth Hara (August 5, 2024) (online at [https://hawaiiankingdom.org/pdf/RCI\\_War\\_Criminal\\_Report\\_no.\\_24-0001.pdf](https://hawaiiankingdom.org/pdf/RCI_War_Criminal_Report_no._24-0001.pdf)).*

requested, give opinions upon questions of law submitted by the...legislature or its members,” to answer this question of law:

Considering the two legal opinions by Professor Craven and Professor Lenzerini that conclude the Hawaiian Kingdom continues to exist as a State under international law, which are enclosed with this request, *is the State of Hawai‘i within the territory of the United States or is it within the territory of the Hawaiian Kingdom?*

Given the severity of this request and that I may be implicated in war crimes for enacting legislation, your earnest attention to this matter will be greatly appreciated.

The credibility of Dr. Sai, as a recognized scholar on the subject of Hawaiian State sovereignty and the ensuing American occupation since 1893, was recently aired on KHON’s television show “Aloha Authentic” with host Kamaka Pili. In that show, Dr. Sai talked about his recent Oxford University Press chapter titled “Hawai‘i’s Sovereignty and Survival in the Age of Empire,” in the book *Unconquered States: Non-European Powers in the Imperial Age*, which I have attached, whereby he clearly articulated why the Hawaiian Kingdom is an occupied State. I have not seen any evidence refuting Dr. Sai’s research and publications, nor have I seen any evidence refuting the lawful existence of the Hawaiian Kingdom under international law and the Council of Regency as its provisional government. Instead, I have seen the exact opposite view.

Judge James Crawford, of the International Court of Justice, stated, there “is a presumption that the State continues to exist, with its rights and obligations...despite a period in which there is no, or no effective, government,”<sup>2</sup> and he goes on to state that military occupation “does not affect the continuity of the State, even where there exists no government claiming to represent the occupied State.”<sup>3</sup> On this rule of State continuity during military occupation, international law scholar Professor Ian Brownlie explains:

Thus, after the defeat of Nazi Germany in the Second World War the four major Allied powers assumed supreme power in Germany. The legal competence of the German state [its independence and sovereignty] did not, however, disappear. What occurred is akin to legal representation or agency of necessity. The German state continued to exist, and, indeed, the legal basis of the occupation depended on its continued existence.<sup>4</sup>

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<sup>2</sup> James Crawford, *The Creation of States in International Law* 34 (2<sup>nd</sup> ed. 2006).

<sup>3</sup> *Id.*

<sup>4</sup> Ian Brownlie, *Principles of Public International Law* 109 (4<sup>th</sup> ed. 1990).

The presumption of State continuity shifts the burden, as to what is to be proven and by whom, to the refuting State to rebut this presumption—this being the State of Hawai‘i. “If one were to speak about a presumption of continuity,” explains Professor Matthew Craven, an international law scholar from the University of London (SOAS), “one would suppose that an obligation would lie upon the party opposing that continuity to establish the facts substantiating its rebuttal. The continuity of the Hawaiian Kingdom, in other words, may be refuted only by reference to a valid demonstration of legal title, or sovereignty, on the part of the United States, absent of which the presumption remains.”<sup>5</sup> Evidence of “a valid demonstration of legal title, or sovereignty, on the part of the United States” would be an international treaty, particularly a peace treaty, whereby the Hawaiian Kingdom would have ceded its territory and sovereignty to the United States.

There is no such treaty except for a Congressional joint resolution purporting to have annexed the Hawaiian Islands during the Spanish-American War on July 7, 1898. As the Office of Legal Counsel (“OLC”) of the U.S. Department of Justice opined in 1988, “it is unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution,”<sup>6</sup> and there “is a serious question whether Congress has the authority either to assert jurisdiction over an expanded territorial sea for purposes of international law or to assert the United States’s sovereignty over it,”<sup>7</sup> because only the President “has the authority to assert the United States’s sovereignty over the extended territorial sea.”<sup>8</sup> The OLC further stated that only “by means of treaties...can the relations between States be governed, for a legislative act is necessarily without extraterritorial force—confined in its operation to the territory of the State by whose legislature it is enacted.”<sup>9</sup>

Along with the presumption of Hawaiian State continuity, there is also a presumption that certain violations of the law of occupation are war crimes that have no statute of limitations. Professor William Schabas, a renowned scholar on international criminal law and war crimes at Middlesex University London, authored a legal opinion for the Royal Commission of Inquiry, which I have attached. According to Professor Schabas, the following war crimes, under customary international law, along with their requisite elements for prosecution, have and continue to be committed with impunity since the American occupation began on January 17, 1893. These include:

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<sup>5</sup> Matthew Craven, “Continuity of the Hawaiian Kingdom,” 1 *Hawaiian Journal of Law and Politics* 508, 512 (2004).

<sup>6</sup> Douglas W. Kmiec, “Legal Issues Raised by Proposed Presidential Proclamation to Extend the Territorial Sea,” 12 *Office of Legal Counsel* 238, 252 (1988) (online at [https://hawaiiankingdom.org/pdf/1988 Opinion OLC.pdf](https://hawaiiankingdom.org/pdf/1988%20Opinion%20OLC.pdf)).

<sup>7</sup> *Id.*, 238.

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*, 252.

***Elements of the war crime of usurpation of sovereignty during occupation***

1. The perpetrator imposed or applied legislative or administrative measures of the occupying power going beyond those required by what is necessary for military purposes of the occupation.
2. The perpetrator was aware that the measures went beyond what was required for military purposes or the protection of fundamental human rights.
3. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of compulsory enlistment***

1. The perpetrator recruited through coercion, including by means of pressure or propaganda, of nationals of an occupied territory to serve in the forces of the occupying State.
2. The perpetrator was aware the person recruited was a national of an occupied State, and the purpose of recruitment was service in an armed conflict.
3. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of denationalization***

1. The perpetrator participated in the imposition or application of legislative or administrative measures of the occupying power directed at the destruction of the national identity and national consciousness of the population.
2. The perpetrator was aware that the measures were directed at the destruction of the national identity and national consciousness of the population.
3. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
4. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of pillage***

1. The perpetrator appropriated certain property.
2. The perpetrator intended to deprive the owner of the property and to appropriate it for private or personal use.
3. The appropriation was without the consent of the owner.
4. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of confiscation or destruction of property***

1. The perpetrator confiscated or destroyed property in an occupied territory, be it that belonging to the State or individuals.
2. The confiscation or destruction was not justified by military purposes of the occupation or by the public interest.
3. The perpetrator was aware that the owner of the property was the State or an individual and that the act of confiscation or destruction was not justified by military purposes of the occupation or by the public interest.
4. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of deprivation of fair and regular trial***

1. The perpetrator deprived one or more persons in an occupied territory of fair and regular trial by denying judicial guarantees recognized under international law, including those of the fourth Geneva Convention and the International Covenant on Civil and Political Rights.
2. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
3. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of deporting civilians of the occupied territory***

1. The perpetrator deported or forcibly transferred, without grounds permitted under international law, one or more persons in the occupied State to another State or location, including the occupying State, or to another location within the occupied territory, by expulsion or coercive acts.
2. Such person or persons were lawfully present in the area from which they were so deported or transferred.
3. The perpetrator was aware of the factual circumstances that established the lawfulness of such presence.
4. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.
5. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

***Elements of the war crime of transferring populations into an occupied territory***

1. The perpetrator transferred, directly or indirectly, parts of the population of the occupying State into the occupied territory.
2. The conduct took place in the context of and was associated with an occupation resulting from international armed conflict.

3. The perpetrator was aware of factual circumstances that established the existence of the armed conflict and subsequent occupation.

**With respect to the last two elements listed for each crime:**

1. There is no requirement for a legal evaluation by the perpetrator as to the existence of an armed conflict or its character as international or non-international;
2. In that context there is no requirement for awareness by the perpetrator of the facts that established the character of the conflict as international or non-international law;
3. There is only a requirement for the awareness of the factual circumstances that established the existence of an armed conflict that is implicit in the terms “took place in the context of and was associated with.”

American laws and administrative measures that include Federal, State of Hawai‘i, and County laws, constitutes the war crime of *usurpation of sovereignty during military occupation*. The unlawful imposition of American laws and administrative measures throughout the Hawaiian Islands also serves as a source for the commission of secondary war crimes within the territory of the Occupied State of the Hawaiian Kingdom, i.e. *compulsory enlistment, denationalization, pillage, destruction of property, deprivation of fair and regular trial, deporting civilians of the occupied territory, and transferring populations into an occupied territory*. The reasoning for the prohibition of imposing extraterritorial prescriptions or measures of the occupying State is addressed by Professor Eyal Benvenisti, who is a renowned scholar on the law of occupation at Cambridge University’s Lauterpacht Centre for International Law. Professor Benvenisti states:

The occupant may not surpass its limits under international law through extraterritorial prescriptions emanating from its national institutions: the legislature, government, and courts. The reason for this rule is, of course, the functional symmetry, with respect to the occupied territory, among the various lawmaking authorities of the occupying state. Without this symmetry, Article 43 could become meaningless as a constraint upon the occupant, since the occupation administration would then choose to operate through extraterritorial prescription of its national institutions.

The war crime of *usurpation of sovereignty during military occupation* would appear to have been total since the beginning of the twentieth century. Since 1898, when the United States Congress enacted an American municipal law purporting to have annexed the Hawaiian Islands, it began to unlawfully impose its legislative and administrative measures to the present in violation of the laws of occupation.

Importantly, you have had former Senator Crabbe's formal request for a legal opinion now going on 8 months. Given the gravity of the situation, you should have promptly provided a legal opinion that the State of Hawai'i exists within the territory of the United States and not the Hawaiian Kingdom. Instead, you've provided no rebuttable evidence that this is United States territory. As an attorney, you understand that a presumption is a rule of law and in the absence of rebuttable evidence to the contrary, the Hawaiian Kingdom as an Occupied State exists.

Your failure to not promptly provide the legal opinion has consequently placed every official and employee of the State of Hawai'i and its Counties with criminal culpability under international law. This should be very alarming because my client is not the only person affected by the law of occupation because the Hawaiian Kingdom continues to exist, but all law enforcement officials, including the State of Hawai'i Department of Law Enforcement, Hawai'i Police Department, Maui Police Department, Honolulu Police Department, and Kaua'i Police Department.

**Therefore, on behalf of my client, I am respectfully submitting to you a deadline by June 11, 2025, for you to make public the legal opinion, as formally requested by former Senator Crabbe, that clearly states, by citing sources of international law, *i.e.* treaties, custom, general principles of law, and judicial decisions and scholarly writings, that the State of Hawai'i is within the territory of the United States and not within the territory of the Hawaiian Kingdom.** June 11<sup>th</sup> is Kamehameha Day proclaimed as a national holiday for the kingdom by King Kamehameha V in 1872. This day was meant to honor the grandfather of Kamehameha V who is the progenitor of the country—the Hawaiian Kingdom.

If you do not make public your legal opinion by this day, my client will be forced to comply with the law of occupation whereby the Maui Police Department will continue to exist under the provisional laws of the Hawaiian Kingdom that was proclaimed by the Council of Regency in 2014 because it does "not run contrary to the express, reason and spirit of the laws of the Hawaiian Kingdom," which is explained on page 222 of the Council of Regency's operational plan to transition the State of Hawai'i into a Military Government, which I have attached. The proclamation of provisional laws states:

We do hereby proclaim that from the date of this proclamation all laws that have emanated from an unlawful legislature since the insurrection began on July 6, 1887 to the present, to include United States legislation, shall be the provisional laws of the Realm subject to ratification by the Legislative Assembly of the Hawaiian Kingdom once assembled, with the express proviso that these provisional laws do not run contrary to the express, reason and spirit of the laws of the Hawaiian Kingdom prior to July 6, 1887, the international laws of occupation and international humanitarian law, and if it be the case they shall be regarded as invalid and void.



My client, while continuing to perform his duties as a police officer, will call for the lawful transformation of the State of Hawai'i into a Military Government according to the Council of Regency's operational plan. It is the legal duty of Lieutenant Colonel Michael Rosner, who is the most senior commander in the Hawai'i Army National Guard, to immediately transform the State of Hawai'i into a Military Government in accordance with international humanitarian law, the law of occupation, U.S. Department of Defense Directive 5100.01, and Army regulations, so that the war crime of *usurpation of sovereignty during military occupation* would cease and that Hawaiian Kingdom laws, together with the provisional laws, will be administered. Lieutenant Colonel Lloyd Phelps is the Army National Guard's Staff Judge Advocate to advise LTC Rosner of his military duties as the theater commander of the Occupied State of the Hawaiian Kingdom.

I am copying this letter to Governor Josh Green and the Trustees of the Office of Hawaiian Affairs. The reason for providing a copy of this letter to the Trustees is because the beneficiaries of the Office of Hawaiian Affairs are all Native Hawaiians who comprise the majority of the citizenry of the Hawaiian Kingdom. As aboriginal Hawaiian subjects, irrespective of blood quantum, they have certain rights under Hawaiian Kingdom law.

The greatest dilemma for aboriginal Hawaiians today is having a home and health care. Average cost of a home today is \$820,000.00. And health care insurance for a family of 4 is at \$1,500 a month. According to the Office of Hawaiian Affairs' *Native Hawaiian Health Fact Sheet 2017*, "Today, Native Hawaiians are perhaps the single racial group with the highest health risk in the State of Hawai'i. This risk stems from high economic and cultural stress, lifestyle and risk behaviors, and late or lack of access to health care."

Under Hawaiian Kingdom laws, aboriginal Hawaiian subjects are the recipients of free health care at Queen's Hospital and its outlets across the islands. In its budget, the Hawaiian Legislative Assembly would allocate money to the Queen's Hospital for the healthcare of aboriginal Hawaiian subjects. The United States stopped allocating moneys from its Territory of Hawai'i Legislature in 1909. Aboriginal Hawaiian subjects are also able to acquire up to 50-acres of public lands at \$20.00 per acre under the 1850 Kuleana Act.

Hawaiian Kingdom laws also provide for fishing rights that extend out to the first reef or where there is no reef, out to 1 mile, exclusively for all Hawaiian subjects and lawfully resident aliens of the land divisions called ahupua'a or 'ili. From that point out to 12 nautical miles, all Hawaiian subjects and lawfully resident aliens have exclusive access to economic activity, such as mining underwater resources and fishing. Once the United Nations Convention on the Law of the Sea is acceded to by the Council of Regency, this exclusive access to economic activity will extend out to the 200 miles Exclusive Economic Zone.

We look forward to your timely reply.

Respectfully,



Edward Halealoha Ayau  
Attorney-at-Law  
For Maui Police Detective Kamuela Lanakila Mawae

Attachments:

- (1) Hawai'i Law Enforcement Letter
- (2) Senator Cross Makani Crabbe's Letter for a Legal Opinion
- (3) "Hawai'i's Sovereignty and Survival in the Age of Empire" from, Unconquered States, Non-European Powers in the Imperial Age
- (4) Legal Opinion on War Crimes Related to the United States Occupation of the Hawaiian Kingdom Since 17 January 1893
- (5) Operational Plan for Transitioning the State of Hawai'i into a Military Government

Copied to:

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- (4) Trustee Keli'i Akina
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State of Hawai'i:

- (1) Governor Josh Green

# Polish Journal of Political Science

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**Volume 8 Issue 2**

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Investigating War Crimes and Human Rights  
Violations Committed in the Hawaiian Kingdom

Anita Budziszewska\*

## Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom

edited by Dr. David Keanu Sai, Head of the Hawaiian Royal Commission of Inquiry, 2020, 380pp.

DOI: [10.58183/pjps.02112022](https://doi.org/10.58183/pjps.02112022)

The subject of review here is the multi-author publication *Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*, edited by Dr. David Keanu Sai, Head of the Hawaiian Royal Commission of Inquiry, published in 2020. The book is divided into three parts, i.e. Part 1 *Investigating war crimes and human rights violations committed in the Hawaiian Kingdom*; Part 2 *The prolonged occupation of the Hawaiian Kingdom*; and Part 3 *Hawaiian law, treaties with foreign states and international humanitarian law*. This final part represents a collection of source documents in such fields as Hawaiian law, but also international-law treaties with foreign states (in fact 18 including the USA) – dating back to the 19<sup>th</sup> century. A selection of treaties from the sphere of international humanitarian law has also been made and included.

The essence of the publication nevertheless resides in its two first parts, in which the authors offer an in-depth treatment of the complicated long-time relationship between Hawaii and the United States. Nevertheless, the thesis pursued here overall is the straightforward one that Hawaii has been

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occupied illegally and incorporated into the United States unlawfully, with that occupation continuing to the present day and needing to be understood in such terms. The authors also pursue the difficult thread of the story relating to war crimes.

The above main assumption of the book is emphasised from the very beginning of Part I, which is preceded by the text of the Proclamation Establishing the Royal Commission of Inquiry, recalling that that Commission was established to “ensure a full and thorough investigation into the violations of international humanitarian law and human rights within the territorial jurisdiction of the Hawaiian Kingdom.”<sup>1</sup>

In fact, the main aim of the above institution as called into being has been to pursue any and all offences and violations in the spheres of humanitarian law, human rights and war crimes committed by the Americans in the course of their occupation of Hawaii – which is given to have begun on 17 January 1893.

Presented next is the genesis and history of the Commission’s activity described by its aforementioned Head – Dr. David Keanu Sai. He presents the Commission’s activity in detail, by reference to concrete examples; with this part going on to recreate the entire history of the Hawaiian-US relations, beginning with the first attempt at territorial annexation. This thread of the story is supplemented with examples and source texts relating to the recognition of the Hawaiian Kingdom by certain countries (e.g. the UK and France, and taken as evidence of international regard for the integrity of statehood). Particularly noteworthy here is the author’s exceptionally scrupulous analysis of the history of Hawaii and its state sovereignty. No obvious flaws are to be found in the analysis presented.

It is then in the same tone that the author proceeds with an analysis relating to international law, so as to point to the aspects of Hawaii’s illegal occupation by the United States – including an unprecedentedly detailed analysis of the contents of documents, resolutions, mutual agreements and official political speeches, but also reference to other scientific research projects. This very interesting strand of the story is followed by Matthew Craven in Chapter 3 on the *Continuity of the Hawaiian Kingdom as a State under International Law*. Notwithstanding the standpoint on the legality of the occupation or annexation of Hawaii by the United States, the matter of the right to self-determination keeps springing up now and again.

1. *Proclamation Establishing the Royal Commission of Inquiry*, in: *Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*, ed. D.K. Sai, Royal Commission of Inquiry 2020, p. 8.

Considerable attention is also paid to the multi-dimensional nature of the plebiscite organised in 1959 (with regard to Hawaii's incorporation as a state into the United States of America), with the relative lack of transparency of organisation pointed out, along with various breaches and transgressions that may have taken place.

In turn, in Chapter 4 – on *War Crimes Related to the United States' Belligerent Occupation of the Hawaiian Kingdom* – William Schabas makes attempts to verify the assertion, explaining the term war crimes and referring to the wording of the relevant definition that international law is seen to have generated. The main problem emerging from this concerns lack of up-to-date international provisions as regards the above definition. The reader's attention is also drawn to the incomplete nature of the catalogue of actions or crimes that could have constituted war crimes (in line with the observations of Lemkin).<sup>2</sup>

While offering narration and background, this Chapter's author actually eschews Hawaiian-US examples. Instead, he brings the discussion around to cases beyond Hawaii, and in so doing also invokes examples from case-law (e.g. of Criminal Courts and Tribunals). While this is a very interesting choice of approach, it would still have been interesting for the valuable introduction to the subject matter to be supplemented by concrete examples relating to Hawaii, and to the events occurring there during the period under study.

Chapter 5 – on *International Human Rights Law and Self-Determination of Peoples Related to the United States' Occupation of the Hawaiian Kingdom* – allows its author Federico Lenzerini to contribute hugely to the analysis of the subject matter, given his consideration of the human rights protection system and its development with a focus on the right to self-determination. The author separates those dimensions of the law in question that do not relate to the Hawaiian Kingdom<sup>3</sup>, as well as those that may have application to the Hawaiian society.<sup>4</sup> Indeed, the process ends with *Applicability of the Right to Self-Determination During the American Occupation* – a chapter written with exceptional thoroughness, objectivity and synthesis. The author first tells the story on how the human rights protection system came to be formulated (by the 1948 Universal Declaration of Human Rights and the Covenants of 1996, but also by reference to other Conventions). Rightly signalled is the institutional dimension to the protection of human rights, notably the Human Rights Committee founded to protect the rights outlined in the Covenant on Civil and Political Rights. It is of course recalled that the US is not a party to the relevant Protocols, which is preventing US citizens from assert-

2. W. Schabas, *War Crimes Related to the United States Belligerent Occupation of the Hawaiian Kingdom*, in: *Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*, ed. D.K. Sai, Royal Commission of Inquiry 2020, p. 156.

3. F. Lenzerini, *International Human Rights Law and Self-Determination of Peoples Related to the United States' Occupation of the Hawaiian Kingdom*, in: *Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*, ed. D.K. Sai, Royal Commission of Inquiry 2020, p. 212.

4. *Ibidem*, p. 214.

ing the rights singled out in the 1966 Covenants.<sup>5</sup> Again rightly, attention is also paid to the regional human rights mechanism provided for by the 1969 American Convention on Human Rights, which also lacks the United States as a party.

The focus here is naturally on the right to self-determination, which the author correctly terms the only officially recognised right of a collective nature (if one excludes the rights of tribal peoples). The further part of the chapter looks at the obligations of states when it comes to safeguarding their citizens' fundamental human rights. The philosophical context underpinning the right to self-determination is considered next (with attention rightly paid first to liberty related aspects and the philosophical standpoints of Locke and Rousseau<sup>6</sup>, along with the story of the formulation of this right's ideological basis and reference to what is at times a lack of clarity regarding its shape and scope (not least in Hawaii's case).<sup>7</sup> What is therefore welcome is the wide-ranging commentary offered on the dimensions to the above rights that do relate to Hawaiian society as well as those that do not.

In summing up the substantive and conceptual content, it is worth pointing to the somewhat interdisciplinary nature of the research encompassed. Somewhat simplifying things, this book can first be seen as an in-depth analysis of matters historical (with much space devoted to the roots of the relations between Hawaii and the United States, to the issue of this region's occupation and the genesis of Hawaii's incorporation into the USA). These aspects have all been discussed with exceptional thoroughness and striking scrupulousness, in line with quotations from many official documents and source texts. This is all pursued deliberately, given the authors' presumed intention to illustrate the genesis of the whole context underpinning the Hawaiian-US relations, as well as the further context through which Hawaii's loss of state sovereignty came about. This strand to the story gains excellent illustration thanks to Dr. Keanu Sai.

The second part is obviously international law related and it also has much space devoted to it by the authors. The publications core theses gain support in the analysis of many and varied international documents, be these either mutual agreements between Hawaii and the United States or international Conventions, bilateral agreements of other profiles, resolutions, instruments developed under the aegis of the UN or those of a regional nature (though not only concerned with the Americas, as much space is devoted to European solutions, and European law on the protection of human rights in particular). There is also much reference to international case-law and juris-

5. Ibidem, p. 177.

6. Ibidem, p. 209.

7. Ibidem, p. 214.

prudence in a broader sense, the aim being to indicate the precedents already arrived at, and to set these against the international situation in which Hawaii finds itself.

However, notwithstanding this publication's title, the authors here do not seek to "force-feed" readers with their theses regarding Hawaii's legal status. Rather, by reaching out to a wide range of sources in international law as well as from history, they provide sufficient space for independent reflection and drawing of conclusions. In this regard, it would be interesting if few remarks were devoted to present-day relations between Hawaii and the rest of the USA, with a view to achieving a more-profound illustration of the state of this relationship. However, it might seem from the book's overall context that this was done deliberately so that the foundations of this unique dispute gain proper presentation. All is then augmented further by Part 3 – the collection of agreements and documents considered to sustain the main assumptions of the publication under review. Were I to force myself to point out any failure of the book to meet expectations, I would choose the cultural dimension. There is no way of avoiding an impression – only enhanced by cover-to-cover reading – that this publication is deeply rooted in the Hawaiians' sense of cultural and historical identity. So it would have been interesting to see the cultural dimension addressed, including through a more in-depth analysis of social awareness. At the very least, I have in mind here Article 27 UDHR, traditionally regarded as the source of the right to culture and the right to participate in cultural life. To be added to that might be Article 15 of the International Covenant on Economic, Social and Cultural Rights, as well as Article 27 of the International Covenant on Civil and Political Rights. While (as Boutros Boutros-Ghali noted in 1970) the right in question initially meant access to high culture, there has since been a long process of change that has seen an anthropological dimension conferred upon both culture and the right thereto. A component under that right is the right to a cultural identity<sup>8</sup> – which would seem to be the key space in the Hawaiian context. The UN and UNESCO have in fact been paying a great deal of attention to this matter, with the key relevant documents being the 2005 *Convention on the Protection and Promotion of the Diversity of Cultural Expressions* that in general links these issues with the human rights dimension as well as the *Recommendation on Participation by the People at Large in Cultural Life and their Contribution to It* (1976).

So a deeply-rooted cultural-identity dimension would have offered an interesting complement to the publication's research material, all the more so as it would presumably reveal the attempts to annihilate that culture (thus striking not merely at statehood, but at national integrity of identity). An interesting approach would then have been to show in details whether and to what extent

8. See: Y.M. Donders, *Towards a Right to Cultural Identity?*, Intersentia 2002.



this is resisted by the USA (e.g. in regard to the upholding of symbols of material and non-material cultural heritage).

However, given the assumption the book is based on – i.e. the focus on state sovereignty (not the right of cultural minorities, but the right of a nation to self-determination), the above “omission” actually takes nothing away from the value of the research presented. However, the aspect of national identity – of which cultural and historical identity is a key component – may represent an impulse for further, more in-depth research.

I regard this publication as an exceptionally valuable one that systematises matters of the legal status of the Hawaiian Kingdom, taking up the key issues surrounding the often ignored topic of a difficult historical context occurring between Hawaii and the United States. The issue at stake here has been regenerated synthetically, on multiple levels, with a penetrating analysis of the regulations and norms in international law applying to Hawaii – starting from potential occupied-territory status, and moving through to multi-dimensional issues relating to both war crimes and human rights. This is one of the few books – if not the only one – to describe its subject matter so comprehensively and completely. I therefore see this work as being of exceptional value and considerable scientific importance. It may serve not only as an academic source, but also a professional source of knowledge for both practicing lawyers and historians dealing with the matter on hand. The ambition of those who sought to take up this difficult topic can only be commended.

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