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30 June 2025

Her Excellency Leticia Carvalho  
Secretary General of the International Seabed Authority  
14-20 Port Royal Street  
Kingston, Jamaica

Excellency:

On behalf of the Government of the Hawaiian Kingdom, I extend my Government's compliments to Your Excellency as Secretary General of the International Seabed Authority ("ISA"). The purpose of this letter is two-fold: first, to explain the circumstances of the continued existence of the Hawaiian Kingdom for the purposes of international law and its impact on ISA members who are successor States of Hawaiian Kingdom treaty partners; and second, for the Hawaiian Kingdom to provide you notice of our intent to accede to the 1982 United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (with annex).

To quote the dictum of the *Larsen v. Hawaiian Kingdom* arbitral tribunal's award in 2001 at the Permanent Court of Arbitration, "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, including by exchanges of diplomatic or consular representatives and the conclusion of treaties."<sup>1</sup> According to Westlake, in 1894, the Family of Nations comprised, "First, all European States [...] Secondly, all American States [...] Thirdly, a few Christian States in other parts of the world, as the Hawaiian Islands, Liberia and the Orange Free State."<sup>2</sup>

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<sup>1</sup> *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566, 581 (2001).

<sup>2</sup> John Westlake, *Chapters on the Principles of International Law* 81 (1894). In 1893, there were forty-four independent states in the Family of Nations: Argentina, Austria-Hungary, Belgium, Bolivia, Brazil, Bulgaria, Chile, Colombia, Costa Rica, Denmark, Ecuador, France, Germany, Great Britain, Greece, Guatemala, Hawaiian Kingdom, Haiti, Honduras, Italy, Liberia, Liechtenstein, Luxembourg, Netherlands,

Hawaiian territory comprise the islands of Hawai‘i, Maui, Molokini, Kaho‘olawe, Molokai, Lāna‘i, O‘ahu, Kaua‘i, Lehua, Ni‘ihau, Ka‘ula, Nihoa, Necker, French Frigate Shoals, Gardner Pinnacles, Maro Reef, Laysan, Lisiansky, Pearl and Hermes Atoll, Kure Atoll, Palmyra Atoll, and Johnston Atoll.<sup>3</sup> According to the Hawaiian Kingdom Supreme Court, Hawaiian sovereignty included the territorial sea that extends “a distance of a marine league, or as far as a cannon shot will reach from the shore.”<sup>4</sup> Under current customary international law, the territorial sea is now twelve nautical miles from the shore.

Unlike other non-European States, the Hawaiian Kingdom, as a recognized neutral State, enjoyed equal treaties with European powers and the United States, had full independence of its laws throughout its territory. The Hawaiian Kingdom entered into treaties of amity with the Austro-Hungarian Kingdom,<sup>5</sup> Belgium,<sup>6</sup> Bremen,<sup>7</sup> Denmark,<sup>8</sup> France,<sup>9</sup> Germany,<sup>10</sup> Hamburg,<sup>11</sup> Italy,<sup>12</sup> Japan,<sup>13</sup> the Netherlands,<sup>14</sup> Portugal,<sup>15</sup> Russia,<sup>16</sup> Spain,<sup>17</sup> the United Kingdoms of Sweden and Norway,<sup>18</sup> Switzerland,<sup>19</sup> the United Kingdom,<sup>20</sup> and the United States.<sup>21</sup>

By 1893, the Hawaiian Kingdom maintained diplomatic representatives accredited to foreign States and consulates. Hawaiian Legations were established in Washington, D.C., London, Paris, and Tokyo, while diplomatic representatives, accredited to the Hawaiian Court in Honolulu, were from the United States, Portugal, Great Britain, France and Japan.

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Mexico, Monaco, Montenegro, Nicaragua, Orange Free State that was later annexed by Great Britain in 1900, Paraguay, Peru, Portugal, Romania, Russia, San Domingo, San Salvador, Serbia, Spain, Sweden-Norway, Switzerland, Turkey, United States of America, Uruguay, and Venezuela.

<sup>3</sup> Hawaiian Kingdom, Royal Commission of Inquiry, David Keanu Sai, “Hawaiian Constitutional Governance,” in David Keanu Sai (ed.), *Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom* 86-90 (2020) (online at [https://hawaiiankingdom.org/pdf/Hawaiian\\_Royal\\_Commission\\_of\\_Inquiry\\_\(2020\).pdf](https://hawaiiankingdom.org/pdf/Hawaiian_Royal_Commission_of_Inquiry_(2020).pdf)).

<sup>4</sup> *The King v. Parish et al.*, 1 Hawai‘i 58, 61 (1849).

<sup>5</sup> Royal Commission of Inquiry, “Treaties with Foreign States,” 237.

<sup>6</sup> *Id.*, 241.

<sup>7</sup> *Id.*, 247.

<sup>8</sup> *Id.*, 255.

<sup>9</sup> *Id.*, 257.

<sup>10</sup> *Id.*, 265.

<sup>11</sup> *Id.*, 273.

<sup>12</sup> *Id.*, 275.

<sup>13</sup> *Id.*, 281.

<sup>14</sup> *Id.*, 283.

<sup>15</sup> *Id.*, 285.

<sup>16</sup> *Id.*, 287.

<sup>17</sup> *Id.*, 290.

<sup>18</sup> *Id.*, 296.

<sup>19</sup> *Id.*, 301.

<sup>20</sup> *Id.*, 249.

<sup>21</sup> *Id.*, 305.

There were also thirty-three Hawaiian consulates in Great Britain and her colonies; five in France and her colonies; five in Germany; one in Austria; eight in Spain and her colonies; five in Portugal and her colonies; three in Italy; two in the Netherlands; four in Belgium; four in Sweden and Norway; one in Denmark; and two in Japan.<sup>22</sup> Foreign Consulates in the Hawaiian Kingdom came from the United States, Italy, Chile, Germany, Sweden and Norway, Denmark, Peru, Belgium, the Netherlands, Spain, Austria and Hungary, Russia, Great Britain, Mexico, Japan, and China.<sup>23</sup>

In his speech at the opening of the 1855 Hawaiian Legislative Assembly, King Kamehameha IV, reported:

It is gratifying to me, on commencing my reign, to be able to inform you, that my relations with all the great Powers, between whom and myself exist treaties of amity, are of the most satisfactory nature. I have received from all of them, assurances that leave no room to doubt that my rights and sovereignty will be respected.<sup>24</sup>

Despite the government of the Hawaiian Kingdom being unlawfully overthrown by United States troops on January 17, 1893, the treaties between the Hawaiian Kingdom and predecessor States are still binding on their successor States under customary international law. The Hawaiian Kingdom is open to negotiate a treaty with these successor States, or for these States to declare that the treaty is regarded as no longer in force between them.

The successor States of the Hawaiian Kingdom's treaty partners, were not aware, at the time of their independence, that the Hawaiian Kingdom continued to exist as a State, therefore, neither the newly independent States nor the Hawaiian Kingdom could declare "within a reasonable time after the attaining of independence, that the treaty is regarded as no longer in force between them."<sup>25</sup> Until there is clarification of the successor States' intentions, as to a common understanding with the Hawaiian Kingdom regarding the continuance in force of the Hawaiian treaty with their predecessor State, the Hawaiian Kingdom will presume the continuance in force of its treaties with the successor States. The majority of member States of the ISA are successor States to treaties with the Hawaiian Kingdom.

This position, taken by the Hawaiian Kingdom, is consistent with the 1978 Vienna Convention on Succession of States in respect of Treaties. Article 24 states:

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<sup>22</sup> Thomas Thrum, *Hawaiian Almanac and Annual for 1893* 140-141 (1892).

<sup>23</sup> *Id.*

<sup>24</sup> Robert C. Lydecker, *Roster Legislatures of Hawaii* 57 (1918).

<sup>25</sup> *Second report on succession in respect of treaties, by Sir Humphrey Waldock, Special Rapporteur*, Document A/CN.4/214 and ADD.1\* AND 2, p. 48 (1969).

1. A bilateral treaty which at the date of the succession of States was in force in respect of the territory to which the succession of States relates is considered as being in force between a newly independent State and the other State party when:
  - a. they expressly so agree; or
  - b. by reason of their conduct they are to be considered as having agreed.
2. A treaty considered as being in force under paragraph 1 applies in the relations between the newly independent State and the other State party from the date of the succession of States, unless a different intention appears from their agreement or is otherwise established.

Because successor States, which include member States of the ISA, at the time of their independence were unaware of the existence of the Hawaiian Kingdom and its treaties with their predecessor States, Article 24(1)(a) and (b) could not arise. Therefore, in the absence of an express agreement or an agreement by conduct, it will be presumed that the treaties continue in force with the successor States of the Hawaiian Kingdom treaty partners for two years, under customary international law, from their receipt of this communication.

The matter of the Hawaiian Kingdom's continuity or discontinuity as a State was addressed by the Permanent Court of Arbitration ("PCA"). On 8 November 1999, arbitral proceedings were initiated in *Larsen v. Hawaiian Kingdom*, where I served as lead Agent for the Hawaiian Kingdom.<sup>26</sup> Before the arbitral tribunal was established on 9 June 2000, I was in communication with the legal counsel of the PCA as to the Hawaiian Kingdom's status as a State in continuity since the nineteenth century in order for the PCA to exercise its institutional jurisdiction so that it can form an arbitral tribunal.

Despite the appearance of Hawai'i being the 50th State of the American Union, the continuity of the Hawaiian State was acknowledged by the PCA under customary international law. PCA Secretary General, Tjaco T. van den Hout, recognized the continued existence of the Hawaiian Kingdom as a non-Contracting State to the Convention (I) for the Pacific Settlement of International Disputes, that was concluded at The Hague on 29 July 1899 ("1899 Convention"), and to the 1907 Convention (I) for the Pacific Settlement of International Disputes ("1907 Convention").<sup>27</sup> On its website, the PCA described the dispute as follows:

Lance Paul Larsen, a resident of Hawaii, brought a claim against the Hawaiian Kingdom by its Council of Regency ("Hawaiian Kingdom") on the grounds that

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<sup>26</sup> Permanent Court of Arbitration, Case Repository, PCA Case no. 1999-01, *Larsen v. Hawaiian Kingdom* (online at <https://pca-cpa.org/en/cases/35/>).

<sup>27</sup> Permanent Court of Arbitration, *101st Annual Report*, Annex 2, p. 44, fn. 1 (2001) (online at <https://docs.pca-cpa.org/2015/12/PCA-annual-report-2001.pdf>).

the Government of the Hawaiian Kingdom is in continual violation of: (a) its 1849 Treaty of Friendship, Commerce and Navigation with the United States of America, as well as the principles of international law laid down in the Vienna Convention on the Law of Treaties, 1969 and (b) the principles of international comity, for allowing the unlawful imposition of American municipal laws over the claimant's person within the territorial jurisdiction of the Hawaiian Kingdom.

The PCA's 101st Annual Report for 2001 stated that the *Larsen v. Hawaiian Kingdom* arbitral tribunal was established "Pursuant to article 47 of the 1907 Convention (art. 26 of the 1899 Convention)."<sup>28</sup> Article 26 of the 1899 Convention and Article 47 of the 1907 Convention both provide access to the PCA's jurisdiction for non-Contracting States. Article 47 states, the "jurisdiction of the Permanent Court, may within the conditions laid down in the regulations, be extended to disputes between non-Contracting [States] or between Contracting [States] and non-Contracting [States], if the parties are agreed on recourse to this Tribunal."<sup>29</sup> Together, this brought the dispute under the auspices of the PCA. The PCA Secretary General also recognized the Council of Regency as the Hawaiian Kingdom's government. ISA members, who are Contracting States to the 1899 and 1907 Conventions, are in receipt of the PCA's Annual Reports. For the other members of the ISA who are not Contracting States to the PCA Conventions, they can access the Annual Reports at the PCA's website.

I am also enclosing my recent chapter titled "Hawai'i's Sovereignty and Survival in the Age of Empire," in *Unconquered States: Non-European Powers in the Imperial Age*, published in December of 2024 by Oxford University Press ("OUP"). In the chapter I cover: the legal and political history of my country—the Hawaiian Kingdom; the evolution of governance as a constitutional monarchy; the unlawful overthrow of the government by United States troops in 1893; the prolonged American occupation since 1893; the restoration of the government of the Hawaiian Kingdom in 1997; and the recognition of the continued existence of the Hawaiian Kingdom as a State and the Council of Regency as its provisional government in 1999 by the PCA. Notwithstanding this prolonged occupation, OUP has made it official that the American occupation is now the longest in modern history. The Israeli occupation of the West Bank and Eastern Jerusalem, that began in 1967, was previously thought to be the longest in modern history.

Furthermore, the continuity of Hawaiian Statehood, under customary international law, was explained in two legal opinions, the first by Professor Matthew Craven from the University of London, SOAS,<sup>30</sup> and the second by Professor Federico Lenzerini from the

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<sup>28</sup> *Id.*

<sup>29</sup> 36 Stat. 2199, 2224 (1907).

<sup>30</sup> Matthew Craven, "Continuity of the Hawaiian Kingdom," 1 *Haw. J.L. & Pol.* 508 (2004) (online at [https://hawaiiankingdom.org/pdf/1HawJLPol508\\_\(Craven\).pdf](https://hawaiiankingdom.org/pdf/1HawJLPol508_(Craven).pdf)).

University of Siena, Italy.<sup>31</sup> Moreover, war crimes are and have been committed by the imposition of American municipal laws over the territory of the Hawaiian Kingdom. This is also a matter of customary international law as explained by the legal opinion of Professor William Schabas from Middlesex University London.<sup>32</sup> Professor Schabas is a renowned expert in international criminal law, genocide, war crimes, human rights and crimes against humanity.

Professor Malcolm Shaw explains that because “of the lack of supreme authorities and institutions in the international legal order, the responsibility is all the greater upon publicists of the various nations to inject an element of coherence and order into the subject as well as to question the direction and purposes of the rules.”<sup>33</sup> Thus, “academic writings are regarded as law-determining agencies, dealing with the verification of alleged rules.”<sup>34</sup> The U.S. Supreme Court explained this in the *Paquette Habana* case:

[R]esort must be had [...] to the works of jurists and commentators, who by years of labor, research and experience, have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is.<sup>35</sup>

As a source of international law, these legal opinions establish a shift in the burden of proof. 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. “If one were to speak about a presumption of continuity,” explains Professor Craven, “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>36</sup>

Evidence of a valid demonstration of legal title or sovereignty by the United States would be an international treaty, notably a peace treaty, whereby the Hawaiian Kingdom would have ceded its territory and sovereignty to the United States. Examples of foreign States

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<sup>31</sup> Federico Lenzerini, “Legal Opinion on the Authority of the Council of Regency of the Hawaiian Kingdom,” 3 *Haw. J.L. & Pol.* 317 (2021) (online at [https://hawaiiankingdom.org/pdf/3HawJLPol317\\_\(Lenzerini\).pdf](https://hawaiiankingdom.org/pdf/3HawJLPol317_(Lenzerini).pdf)).

<sup>32</sup> William Schabas, “Legal Opinion on War Crimes Related to the United States Occupation of the Hawaiian Kingdom since 17 January 1893,” 3 *Haw. J.L. & Pol.* 334 (2021) (online at [https://hawaiiankingdom.org/pdf/3HawJLPol334\\_\(Schabas\).pdf](https://hawaiiankingdom.org/pdf/3HawJLPol334_(Schabas).pdf)).

<sup>33</sup> Malcolm N. Shaw QC, *International Law*, 6th ed., 113 (2008).

<sup>34</sup> *Id.*, 71.

<sup>35</sup> *The Paquete Habana*, 175 U.S., 677, 700 (1900).

<sup>36</sup> Craven, 512.

ceding sovereign territory to the United States by a peace treaty include the 1848 *Treaty of Peace, Friendship, Limits, and Settlement with the Republic of Mexico*<sup>37</sup> and the 1898 *Treaty of Peace between the United States of America and the Kingdom of Spain*.<sup>38</sup>

There is no such treaty between the Hawaiian Kingdom and the United States. There only exists a congressional joint resolution of annexation, purporting to have annexed a foreign State in 1898. This is an American municipal law limited in its effect to the territory of the United States. As the United States Department of Justice’s Office of Legal Counsel (“OLC”) concluded in its 1988 legal opinion, it “is unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution,”<sup>39</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>40</sup> because only the President “has the authority to assert the United States’s sovereignty over the extended territorial sea.”<sup>41</sup> This legal opinion 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>42</sup>

Absent the evidence of a treaty, the Hawaiian Kingdom continues to exist, as an occupied State with its sovereignty and independence intact, despite the prolonged nature of the American occupation. Therefore, under customary international law, there is a presumption of continuity of the Hawaiian Kingdom and that war crimes are being committed throughout Hawaiian territory. This is a continuous violation of peremptory norms.

According to the *Articles on the Responsibility of States for Internationally Wrongful Acts* (“ARSIWA”), “every internationally wrongful act of a State entails the international responsibility of that State.” This act of the State will qualify as an ‘internationally wrongful act’ when two conditions are met. According to Article 2, ARSIWA, “There is an internationally wrongful act of a State when conduct consisting of an action or omission: (a) is attributable to the State under international law; and (b) constitutes a breach of an international obligation of the State.”

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<sup>37</sup> 9 Stat. 922 (1848).

<sup>38</sup> 30 Stat. 1754 (1898).

<sup>39</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_Opinion_OLC.pdf)).

<sup>40</sup> *Id.*, 238.

<sup>41</sup> *Id.*

<sup>42</sup> *Id.*, 252.

The condition is that the act must be attributable to a State. The United States is violating this obligation, by exercising its power, through the unlawful imposition of American laws and administrative measures over Hawaiian territory, since 1898. According to Professor Schabas, the imposition of American municipal laws and administrative measures is the war crime of *usurpation of sovereignty during military occupation* under customary international law.<sup>43</sup> Hence, all acts exercised by the United States within the territory of the Hawaiian Kingdom are void and without legal effect. As the Permanent Court of International Justice stated:

Now 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.<sup>44</sup>

Members of the ISA, who are members of the United Nations, were made aware of the ‘circumstances of the internationally wrongful act’ on 11 October 2021 by note verbale. It was delivered by electronic mail to their Permanent Missions at the United Nations in New York City, which I am enclosing. The diplomatic note stated:

This Note Verbale serves as a notice of claim by an injured State, pursuant to Article 43 of the International Law Commission’s *Articles on Responsibility of States for Internationally Wrongful Acts* (2001), invoking the responsibility of all Member States of the United Nations who are responsible for the internationally wrongful act of recognizing the United States presence in the Hawaiian Kingdom as lawful to cease that act pursuant Article 30(a), and to offer appropriate assurances and guarantees of non-repetition pursuant to Article 30(b). The form of reparation under Article 31 shall take place in accordance with the provisions of Part Two—*Content of the International Responsibility of a State(s)*.

In addition, on 22 March 2022, on behalf of two NGOs, the *International Association of Democratic Lawyers* and the *American Association of Jurists—Asociación Americana de Juristas*, I delivered an oral statement to the United Nations Human Rights Council (“HRC”) at its 49th session in Geneva. The oral statement read:

The International Association of Democratic Lawyers and the American Association of Jurists call the attention of the Council to human rights violations in the Hawaiian Islands. My name is Dr. David Keanu Sai, and I am the Minister of Foreign Affairs *ad interim* for the Hawaiian Kingdom. I also served as lead

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<sup>43</sup> Schabas, 340.

<sup>44</sup> *The Case of the S.S. Lotus* (France v. Turkey), PCIJ Series A, No. 10, 18 (1927).

agent for the Hawaiian Kingdom at the Permanent Court of Arbitration from 1999-2001 where the Court acknowledged the continued existence of my country as a sovereign and independent State.

The Hawaiian Kingdom was invaded by the United States on 16 January 1893, which began its century long occupation to serve its military interests. Currently, there are 118 military sites throughout the islands and the city of Honolulu serves as the headquarters for the Indo-Pacific Combatant Command.

For the past century, the United States has and continues to commit the war crime of usurpation of sovereignty, under customary international law, by imposing its municipal laws over Hawaiian territory, which has denied Hawaiian subjects their right of internal self-determination by prohibiting them to freely access their own laws and administrative policies, which has led to the violations of their human rights, starting with the right to health, education and to choose their political leadership.<sup>45</sup>

None of the 47 HRC member States, including the United States, protested, or objected to this oral statement that war crimes were being committed in the Hawaiian Kingdom. Under international law, such acquiescence “concerns a consent tacitly conveyed by a State, unilaterally, through silence or inaction, in circumstances such that a response expressing disagreement or objection in relation to the conduct of another State would be called for.”<sup>46</sup> Since they “did not do so [they] thereby must be held to have acquiesced. *Qui tacet consentire videtur si loqui debuisset ac potuisset.*”<sup>47</sup> Thus, silence conveys consent.

Determined to hold individuals accountable for having committed war crimes and human rights violations throughout the Hawaiian Kingdom, the Council of Regency, by proclamation on 17 April 2019,<sup>48</sup> established a Royal Commission of Inquiry (“RCI”). This was done in similar fashion to the United States proposal of establishing a Commission of Inquiry after the First World War “to consider generally the relative culpability of the authors of the war and also the question of their culpability as to the

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<sup>45</sup> International Association of Democratic Lawyers, *Video: Dr. Keanu Sai’s oral statement to the UN Human Rights Council on the U.S. occupation of the Hawaiian Kingdom* (22 March 2022) (online at <https://iadllaw.org/2022/03/video-dr-keanu-sais-oral-statement-to-the-un-human-rights-council-on-the-u-s-occupation-of-the-hawaiian-kingdom/>).

<sup>46</sup> Nuno Sérgio Marques Antunes, “Acquiescence”, in Rüdiger Wolfrum (ed.), *Max Planck Encyclopedia of Public International Law* para. 2 (2006).

<sup>47</sup> See International Court of Justice, *Case concerning the Temple of Preah Vihear (Cambodia v. Thailand)*, Merits, Judgment of 15 June 1962, *I.C.J. Reports* 1962, p. 6, at 23.

<sup>48</sup> Proclamation: Establishment of the Royal Commission of Inquiry (17 April 2019) (online at [https://hawaiiankingdom.org/pdf/Proc\\_Royal\\_Commission\\_of\\_Inquiry.pdf](https://hawaiiankingdom.org/pdf/Proc_Royal_Commission_of_Inquiry.pdf)): see also “Proclamation” in Sai *The Royal Commission of Inquiry*, 8-9.

violations of the laws and customs of war committed during its course.”<sup>49</sup> I serve as Head of the RCI and Professor Federico Lenzerini, from the University of Siena, Italy, serves as its Deputy Head.<sup>50</sup> According to Article 1 of the proclamation:

The purpose of the Royal Commission of Inquiry shall be to investigate the consequences of the United States’ belligerent occupation, including with regard to international law, humanitarian law and human rights, and the allegations of war crimes committed in that context. The geographical scope and time span of the investigation will be sufficiently broad and be determined by the head of the Royal Commission.

Moreover, in Professor Schabas’ RCI legal opinion on war crimes under customary international law being committed in Hawai‘i, he states in his introduction:

This legal opinion is made at the request of the head of the Hawaiian Royal Commission of Inquiry, Dr. David Keanu Sai, in his letter of 28 May 2019, requesting of me “a legal opinion addressing the applicable international law, main facts and their related assessment, allegations of war crimes, and defining the material elements of the war crimes in order to identify *mens rea* and *actus reus*”. It is premised on the assumption that the Hawaiian Kingdom was occupied by the United States in 1893 and that it remained so since that time. Reference has been made to the expert report produced by Prof. Matthew Craven dealing with the legal status of Hawai‘i and the view that it has been and remains in a situation of belligerent occupation resulting in application of the relevant rules of international law, particularly those set out in the Hague Conventions of 1899 and 1907 and the fourth Geneva Convention of 1949. This legal opinion is confined to the definitions and application of international criminal law to a situation of occupation. The terms “Hawaiian Kingdom” and “Hawai‘i” are synonymous in this legal opinion.

In 2020, the RCI also published an eBook titled *The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom*.<sup>51</sup> In 2022, Anita Budziszewska, a professor of international law at the University

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<sup>49</sup> International Law Commission, Historical Survey of the Question of International Criminal Jurisdiction-Memorandum submitted by the Secretary-General 54 (1949).

<sup>50</sup> David Keanu Sai, “All States have a Responsibility to Protect their Population from War Crimes—Usurpation of Sovereignty During Military Occupation of the Hawaiian Islands,” 6(3) *International Review of Contemporary Law* 72-81 (2024) (online at [https://hawaiiankingdom.org/pdf/IRCL\\_Article\\_\(Sai\).pdf](https://hawaiiankingdom.org/pdf/IRCL_Article_(Sai).pdf)).

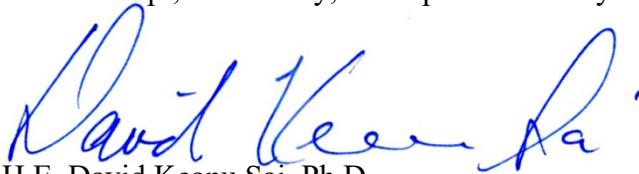
<sup>51</sup> David Keanu Sai (ed.), *The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom* (2020) (online at [https://hawaiiankingdom.org/pdf/Hawaiian\\_Royal\\_Commission\\_of\\_Inquiry\\_\(2020\).pdf](https://hawaiiankingdom.org/pdf/Hawaiian_Royal_Commission_of_Inquiry_(2020).pdf)).

of Warsaw, authored a book review that was published in the *Polish Journal of Political Science*.<sup>52</sup> In her book review, Professor Budziszewska concluded:

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.

Excellency, the Hawaiian Kingdom is a non-member State of the United Nations, but since 1 January 1882, is a member of its specialized agency, the Universal Postal Union.<sup>53</sup> Therefore, as Minister of Foreign Affairs *ad interim*, I am providing you our government's notice of intent to accede to the 1982 United Nations Convention on the Law of the Sea and the 1994 Agreement relating to the implementation of Part XI of the United Nations Convention on the Law of the Sea of 10 December 1982 (with annex). I would be grateful if you could disseminate a copy of this letter to the Member States of the ISA.

Please accept, Excellency, the expression of my highest consideration.



H.E. David Keanu Sai, Ph.D.  
Minister of Foreign Affairs *ad interim*

enclosures

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<sup>52</sup> Anita Budziszewska, Book Review of “The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom,” 8(2) *Polish Journal of Political Science* 68-73 (2022) (online at <https://hawaiiankingdom.org/pdf/PJPS-Budziszewska.pdf>).

<sup>53</sup> Sai, *Hawai‘i’s Sovereignty and Survival in the Age of Empire*, 474.