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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. 24-0001,¹ 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

¹ *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).*

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,”² 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.”³ 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.⁴

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

³ *Id.*

⁴ Ian Brownlie, *Principles of Public International Law* 109 (4th 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.”⁵ 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,”⁶ 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,”⁷ because only the President “has the authority to assert the United States’s sovereignty over the extended territorial sea.”⁸ 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.”⁹

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:

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

⁶ 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)).

⁷ *Id.*, 238.

⁸ *Id.*

⁹ *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 11th 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:

Office of Hawaiian Affairs:

- (1) Chair & Trustee Kaiali'i Kahele
- (2) Vice Chair & Trustee Keoni Souza
- (3) Trustee Kalei Akaka
- (4) Trustee Keli'i Akina
- (5) Trustee Luana Alapa
- (6) Trustee Brickwood Galuteria
- (7) Trustee Carmen Hulu Lindsey
- (8) Trustee John Waihe'e IV

State of Hawai'i:

- (1) Governor Josh Green

LINKS TO ATTACHMENTS:

(1) Hawai‘i Law Enforcement Letter

https://hawaiiankingdom.org/pdf/HI_Law_Enforcement_Ltr.pdf

(2) Senator Cross Makani Crabbe’s Letter for a Legal Opinion

https://hawaiiankingdom.org/pdf/Senator_Crabbe_letter_to_AG_Lopez_re_Hawaiian_Kingdom.pdf

(3) “Hawai‘i’s Sovereignty and Survival in the Age of Empire” from, Unconquered States, Non-European Powers in the Imperial Age

[https://www2.hawaii.edu/~anu/pdf/Hawaii_Sovereignty_and_Survival_\(Sai\).pdf](https://www2.hawaii.edu/~anu/pdf/Hawaii_Sovereignty_and_Survival_(Sai).pdf)

(4) Legal Opinion on War Crimes Related to the United States Occupation of the Hawaiian Kingdom Since 17 January 1893

[https://hawaiiankingdom.org/pdf/3HawJLPol334_\(Schabas\).pdf](https://hawaiiankingdom.org/pdf/3HawJLPol334_(Schabas).pdf)

(5) Operational Plan for Transitioning the State of Hawai‘i into a Military Government

https://hawaiiankingdom.org/pdf/HK_Operational_Plan_of_Transition.pdf