

***HAWAIIAN
SOVEREIGNTY
ADVISORY
COMMISSION***

**FINAL REPORT
FEBRUARY 18, 1994**

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EXECUTIVE SUMMARY

IT IS RECOMMENDED THAT THE LEGISLATURE OF THE STATE OF HAWAI'I FINDS:

That the indigenous people of Hawai'i have been denied the mechanism for expression of their inherent sovereignty through self-government and self-determination.

That the State of Hawai'i must take the step and support the sovereignty of the indigenous Hawaiian people, without imposing a particular form or body of sovereign government. Throughout the United States, native governments and states govern side-by-side. But too often these native governments were imposed upon the states by the federal government, causing years of mistrust and separation.

That the State of Hawai'i cannot confer sovereignty, but it can support the process of self-determination. Further, that it is timely to take this step in light of the joint resolution of Congress, P.L. 103-150, acknowledging and apologizing for the illegal overthrow of the Kingdom of Hawai'i, and urging reconciliation between the United States of America and the indigenous Hawaiian people.

IT IS FURTHER RECOMMENDED THAT THE LEGISLATURE OF THE STATE OF HAWAI'I ACKNOWLEDGES AND RECOGNIZES THE UNIQUE STATUS THE INDIGENOUS HAWAIIAN PEOPLE BEAR TO THE STATE OF HAWAI'I AND TO THE UNITED STATES AND TO FACILITATE THE EFFORTS OF INDIGENOUS HAWAIIANS TO BE GOVERNED BY AN INDIGENOUS SOVEREIGN NATION OF THEIR OWN CHOOSING.

A. The Hawaiian Sovereignty Advisory Commission was created by Act 359 in the 1993 Legislative session to seek counsel from the native Hawaiian people on the process of:

- (1) Holding a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing;
- (2) Providing for a mechanism to democratically convene a Hawaiian convention so that native Hawaiians may openly and

freely discuss and decide the form and structure of that government; and

(3) Describing the process for the conduct of fair, impartial, and valid elections including a referendum election.

The stated tasks of the Commission are to advise the legislature on:

- (1) Conducting special elections for a plebiscite, election of delegates to a convention, and the ratification of the convention's work;
- (2) Apportioning voting districts;
- (3) Establishing the eligibility of convention delegates;
- (4) Conducting educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention;
- (5) Establishing the size and composition of the convention delegation; and
- (6) Establishing the dates for the special elections.

B. The Commission conducted 36 public information meetings in October 1993 and January 1994 to gather input from the Hawaiian community. The community expressed four major concerns.

- (1). Provide more information and education on sovereignty before the plebiscite is held.
- (2). Hawaiian groups need to work together and provide better leadership.
- (3). Set up a process that is independent of the State.
- (4). Stop State actions that decrease or mis-use Hawaiian national trust lands (Hawaiian Homelands, ceded public lands trust).

C. A meeting with Hawaiian organizations was held on February 5, 1994 to gather input from a broad range of Hawaiian groups and begin a process to unify Hawaiian efforts. There were 189 organizations represented and over 240 participants at the meeting. Summaries of the meeting showed majority support for:

- (1). The Hawaiian Sovereignty Advisory Commission continuing its work as presently constituted but not as an "advisory body".
- (2). Conducting a plebiscite election in 1995.
- (3). Supporting the process with state funding.
- (4). Continuing sovereignty education and outreach to Hawaiians of all ages in all communities in Hawai'i and America.

(5). A moratorium on the sales and exchange of the ceded public lands trust.

D. The Commission is making the following proposed recommendations. In the spirit of self-determination the legislature should support the efforts of the indigenous Hawaiian people to:

(1). Establish an independent Hawaiian Sovereignty Elections Board to conduct a Hawaiian sovereignty plebiscite and should the plebiscite be approved by a majority of qualified voters, provide for a fair, impartial, and valid process to formalize the form, structure, and status of a Hawaiian nation.

a. Composition of the Hawaiian Sovereignty Elections Board:
17 Members including two members each from Hawai'i, Maui, Lana'i, Moloka'i, O'ahu, Ni'ihau, and Kaua'i; two members representing non-resident Hawaiians; and one ex-officio member representing Kaho'olawe.

b. Selection Process For Sovereignty Elections Board:
The members shall be nominated by Hawaiian organizations and selected by Hawaiian organizations.

c. Responsibility and Authority of Hawaiian Sovereignty Elections Board:

1. Conduct a 1995 special mail-out election on the plebiscite question:

"E ho'omaka 'ane'i kakou e ho'oko i na kuleana o ka ho'iho'i ea o ko Hawai'i aupuni?"

"Shall a process begin to restore the sovereign Hawaiian nation?"

2. Conduct educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convening of delegates.

3. Provide for a fair, impartial, and valid process to formalize the form, structure, and status of a Hawaiian nation. This will include:

- a. Conducting special elections
- b. Providing for an apportionment plan
- c. Establishing the eligibility of delegates

- d. Establishing the size and composition of delegations
- e. Establish the dates for special elections
- f. Conducting ratification of the work of the delegations
- g. Other responsibilities for the conduct of elections and the convening of delegates
- h. Establishing task forces and committees as deemed necessary

d. Timeframe:

1. July 1, 1994 - August 1, 1994

Hawaiian organizations select Hawaiian Sovereignty Elections Board members

2. August 31, 1994

The Hawaiian Sovereignty Advisory Commission dissolves. Hawaiian Sovereignty Elections Board convenes and develops a process and timetable to formalize the form, structure, and status of a Hawaiian nation.

(2). Provide For A Hawaiian Sovereignty Plebiscite In 1995.

a. The plebiscite question to be posed in both Hawaiian and English on the ballot shall be:

"E Ho'omaka 'Anei Kākou E Ho'okō I Na Kuleana O Ka Ho'iho'i Ea O Kō Hawai'i Aupuni?"

"Shall A Process Begin To Restore The Sovereign Hawaiian Nation?"

The ballot shall be accompanied by an explanation that a "yes" vote means there will be an election of delegates who will be convened to formalize the structure and status of a Hawaiian nation, and that a "no" vote means there will be no such process funded by the legislature at this time.

b. Eligibility To Vote In The Plebiscite:

All Hawaiians, at least 16 years of age, resident and non-resident, U.S. citizens and non-U.S. citizens, including those still serving prison sentences.

c. Process

Mailout ballot.

d. Timeframe

The plebiscite shall be held in 1995. While the final timetable should be determined by the Hawaiian Sovereignty Elections Board, the Hawaiian Sovereignty Advisory Commission recommends the following:

July 1, 1994 through March 26, 1995

Register to vote.

May 1, 1995

Ballots will be mailed out.

June 11, 1995

All ballots must be received back in the mail.

(3). Moratorium On Sales And Exchanges Of Ceded Public Lands

The Hawaiian community on each island has almost unanimously called for a measure to ensure that Hawaiian national trust lands, the Hawaiian Homelands and the ceded public trust lands, will not be decreased or misused. While there is no consensus on the Commission on how to address this concern, there is general agreement that it has to be addressed. The Hawai'i State Legislature is asked to pass a measure to place a moratorium on the sales and exchanges of all lands ceded to the United States by the Republic of Hawai'i or acquired in exchange for lands so ceded, and returned to the State of Hawai'i by virtue of section 5(b) of the Admissions Act, excluding the Hawaiian Homelands, until a sovereign Hawaiian entity is established and recognized.

(4). Education

The clearest mandate with unanimous support from the Hawaiian community is to conduct more education on sovereignty before the sovereignty plebiscite is held. The Commission is coordinating education efforts with other Hawaiian organizations, particularly with Hui Na'auao. The Department of Education should be asked to assist in sovereignty education at all levels.

(5). *Funding*

Funding is requested for:

Personnel Services

Legal Services

Education and Research

Elections Administration

Voter Services

The total request is \$1, 991,156.00

PREAMBLE

Aloha kākou a pau loa. He leo kāhea kēia i nā ō'iwi o kēia pae 'āina o
Hawai'i nei.

Aloha to everyone. This call is to all the native people throughout our
Hawaiian archipelago.

Our work at the Hawaiian Sovereignty Advisory Commission is to find peace
and solutions as we envision today, a path for those to follow tomorrow. We
call to all of you, from every island, to participate.

Let us move forward together expressing our thoughts with one another.

E ākoakoa mai kākou, i ho'okahi ka hā o ke ola, i ho'okahi ke ola no ka
ho'iho'i ea o nā Hawai'i.

Come together as one with a single breath, for life, for sovereignty.

MEMBERS OF THE HAWAIIAN SOVEREIGNTY ADVISORY COMMISSION

The four entities representing the largest organized constituencies of Hawaiians were each guaranteed one seat on the Commission under Act 359. The Office of Hawaiian Affairs nominated Trustee Kina'u Boyd Kamali'i. The Association of Hawaiian Civic Clubs nominated H.K. Bruss Keppeler. The State Council of Hawaiian Homestead Associations nominated Kamaki Kanahele. Ka Lahui Hawai'i felt that allowing the governor to appoint the commissioners gave too much state control over the process and therefore refused to nominate someone to fill their designated seat. Under Act 359, the Hawaiian Sovereignty Advisory Commissioners could nominate someone to fill any of the seats left unfilled by August 1, 1993. The commissioners decided to nominate someone from the island of Ni'ihau. Following consultation with the Ni'ihau community, the Commission nominated Mrs. Jean Keale to serve on the Commission. A Ni'ihau native who dedicated her life to God, she always had the heart and respect of her Ni'ihau people. She was the first Ni'ihau native to attend and graduate from the Kamehameha Schools. The Ni'ihau people pooled their resources to support her to become the first Ni'ihau native to graduate from college. Following her graduation from the University of Hawai'i Jean became the teacher in charge of Ni'ihau for the next 35 years. Mrs. Keale passed away on August 29, 1994. In her place, the Ni'ihau community and the Commission nominated her daughter, 'Ilei Beniamina to serve on the Commission.

The Commission elected Sol Pili Kaho'ohalahala as its chairperson and Davianna Pomaika'i McGregor as its vice-chairperson. The following provides a brief background on each of the members appointed to serve on the Hawaiian Sovereignty Advisory Commission.

Chairperson

Sol Pili Kaho'ohalahala - is Director of Cultural Resources for The Lodge at Ko'ele. He is responsible for implementing a program to orient and educate employees and guests in Hawaiian history with emphasis in Lana'i history, culture, flora/fauna, natural history, sites, music, dance, oral history and legends. In June 1992, he participated in "No A Mamo," sailing south to the Pacific Arts Festivals in Rarotonga, Cook Islands.

Vice-Chairperson

Davianna Pomaika'i McGregor, PhD - is a historian of Hawai'i and the Pacific and teaches as an assistant professor of Ethnic Studies at the University of Hawai'i, Manoa. She is a member of the Protect Kaho'olawe 'Ohana; works

closely with the Pele Defense Fund; and focuses her work on protecting subsistence in rural Hawaiian communities.

Members

Louis "Buzzy" Agard - is an advocate of Hawaiian rights and the future protection of the community. He is a former member of the Hawaiian Homes Commission.

'Ilei Beniamina - was born and raised on Ni'ihau and presently lives on Kaua'i where she is on the faculty of Kaua'i Community College. She co-founded Ho'ola Lahui Hawai'i Hawaiian health care system and Aha Punana Leo. Her work in Hawaiian programs for the Ni'ihau community gained her recognition as Citizen of the Year.

Allen Hoe, esq. - is an attorney in private practice who has devoted a major portion of his time and energy in efforts to promote educational opportunities for Hawaiian youths and to right the wrongs committed against us in 1893.

Victor Kealakuilima Jarrett - was instrumental in promoting the Mainland Council of the Association of Hawaiian Civic Clubs. He served as first Vice-President of the Las Vegas Hawaiian Civic Club. Uncle Victor passed away on January 19, 1994. In his work as commissioner, he strongly advocated for all Hawaiians, resident and non-resident to be able to vote in the Hawaiian sovereignty plebiscite. His dream was for all Hawaiians, throughout the world to one day be united as one people.

Barbara (Hanchett) Kalipi - has been a social worker with Queen Lili'uokalani Children's Center on Moloka'i since 1975. She was born and raised on Ho'olehua Homestead lands and has been involved in Hawaiian community issues over the years.

Rev. Natalie "Tasha" Kama - is an awardee of a Hawaiian Home Lands agricultural lease in Keokea, Maui. She was nominated by the Waiohuli-Keokea Homesteaders, Inc., and appointed by the Governor for the island of Maui on the Sovereignty Advisory Commission.

Kina'u Boyd Kamali'i - is an O.H.A. Trustee at-large and represents O.H.A. on the Commission. She is Administrator of the State Health Planning and Development Agency; served as Chairperson of the Native Hawaiian Study Commission as a presidential appointee; and was Minority Leader of the Hawai'i State House of Representatives.

Mahealani Kamau'u - has been a Hawaiian rights advocate since the early 1970's. She was raised on the islands of Kaua'i and O'ahu. She currently serves as Executive director of the Native Hawaiian Legal Corporation.

Dennis "Bumpy" Kanahele - has been an advocate for total independence in the Hawaiian community for many years. He is very protective of indigenous Hawaiian rights as basic human rights and believes strongly in international law and the domestic laws that protect us today! Kanahele resigned as a member of the Commission on January 8, 1994. He felt that the apology law passed by the U.S. Congress and signed by President William Clinton in November 1993 constituted an acknowledgment that control over Hawai'i by the U.S. and Hawai'i state governments is illegal. On January 16, 1994 he and the 'Ohana Council proclaimed that Hawai'i is now an independent state and can already seek recognition from other countries and the United Nations.

Kamaki Kanahele - represents the State Council of Hawaiian Homestead Associations, is president of Nanakuli Hawaiian Homestead Community Association, and serves as an O.H.A. Trustee.

LaFrance Kapaka-Arboleda - has been a Native Hawaiian rights advocate for the last 20 years. She spent four and a half years in Bush, Alaska, living and studying the Alaska Native Claims Act. She is the current Executive Director for Habitat for Humanity on the island of Kaua'i.

H.K. Bruss Keppeler, esq. - is an attorney in private practice. He is the President of and represents the Association of Hawaiian Civic Clubs on the Commission. He has been active in Hawaiian affairs since 1966.

Poka Laenui (Hayden F. Burgess, esq.) - An early advocate for Hawaiian sovereignty, he has acquired experience in international advocacy and gained international recognition as an expert on the rights of indigenous peoples. He is director of the Institute for the Advancement of Hawaiian Affairs, the President of the Pacific Asia Council of Indigenous Peoples, served as the Vice-President and political advocate for the World Council of Indigenous Peoples in numerous international forums and was selected by the United Nations to address the General Assembly on the opening day of the International year for the World's Indigenous Peoples.

Robert Lindsey - has had an interest in Hawaiian rights and issues since the 1970's. A native of Waimea, Hawai'i, Bob works for Kamehameha Schools/Bishop Estate as Region Manager for Hawai'i Island.

T. Aimoku McClellan - is President of McClellan & Smith, Inc., a marketing, sales and technical writing firm. He recently challenged and suggested amendments to the methods used by the State Supreme Court to appoint Kamehameha Schools / Bishop Estate trustees. He is a member of the Native Hawaiian Chamber of Commerce and serves as First Vice-President of the Kamehameha Schools Alumni Association.

William Kalaniuli Meheula, esq. - is a lawyer with McCorriston Miho & Miller and belongs to the Native Hawaiian Bar Association. He served as the pro bono lead counsel in Ka'ai'ai v. Drake, the first successful Native Hawaiian trust claim litigation against the State of Hawai'i.

Ann Kukakina Nathaniel - serves on the Hawaiian Homes Commission; the Board of Directors of Alu Like, Inc.; and the Board of Directors of the Association of Hawaiian Civic Clubs. She is President of the Hawai'i County District Association of Hawaiian Civic Clubs and the Prince David Kawanānākoa Hawaiian Civic Club. She belongs to the Ahahui Ka'ahumanu Helu 'Ekolu and the Pana'ewa Hawaiian Homelands Community Association.

A'o Pohaku Rodenhurst - was nominated by Na Kupa O Ku Ho'one'ene'eu Pono. She is a Hawaiian with 9 children. As an advocate for self-determination for all kanaka maoli, she is working for the community to achieve spiritual and physical knowledge so our people can make well-informed decisions and have choices to understand sovereignty and self-sufficiency for our future.

ACKNOWLEDGEMENT

The Hawai'i State Legislature and the Office of Hawaiian Affairs jointly appropriated \$420,000 for the work of the Hawaiian Sovereignty Advisory Commission. (\$210,000 each) These funds were allocated to the Office of State Planning (OSP) for disbursement. OSP coordinated the first meeting of the Commission; provided temporary support until the Commission could hire its own staff; provided office space; provided back-up staffing for the public informational meetings; and conducted research as requested by the Commission. OSP was also responsible for convening the Interagency Task Force and channeling requests for information to the Task Force regarding census data, the process and costs of conducting elections, and apportionment issues. OSP and the Interagency Task Force were very supportive of the Commission. Their recommendation to pursue an election process which suited the needs of the Hawaiian people at this point in time even if it meant going outside of the election laws of the state was encouraging. It demonstrated that the state agencies were not attempting to control the process for the Hawaiian people to restore a sovereign Hawaiian nation.

DEFINITION OF TERMS

Referendum - The practice of referring laws, or proposed laws, directly to the people for approval or rejection by vote.

Plebiscite - A vote of the people on some measure officially submitted to them.

Initiative - process by which laws may be introduced or enacted directly by vote of the people.

Ea - 1. Sovereignty , rule, independence 2. Life, air, breath, vapor, gas, breeze, spirit

(The Hawaiian Dictionary by Puku'i & Elbert)

Sovereignty - The supreme, absolute, and uncontrollable power by which any independent state is governed; supreme political authority; paramount control of the constitution and frame of government and its administration; the self-sufficient source of political power, from which all specific political powers are derived; the international independence of a state, combined with the right and power of regulation its internal affairs without foreign dictation; also a political society or state, which is sovereign and independent.

(Black's Law Dictionary)

Possessing, or entitled to, independent authority or jurisdiction; as a sovereign state.

(Webster's Dictionary)

Convention - A body of delegates, representatives, or the like that meet together for a purpose

Organic Document - Is another term for a constitution which is the basic law or principles of government of a politically organized body, as a nation or state drawn up in written documents or established by long custom; also a written document containing such basic law.

Moratorium - a temporary halt of an activity which is considered dangerous.

INTRODUCTION

The quest to restore Hawaiian sovereignty began over 100 years ago with Queen Lili'uokalani. It was taken up by succeeding generations of Hawaiians who weathered many storms as Hawai'i changed many times over. One hundred years later, conditions are changed but the basic needs and demands remain the same - the right of a people and a nation to self-determination.

On January 17, 1993 over 12,000 Hawaiians and others gathered at 'Iolani Palace to protest the illegal overthrow of the Hawaiian monarchy by American planter, missionary and business interests backed by U.S. naval forces. This was not a new expression of Hawaiian rights, but a long, deep-seated demand for redress and restitution of ea (sovereignty) and pono (justice) in Hawai'i.

Compounded with the historic events of 100 years ago, the voices for Hawaiian sovereignty include those who organized the many organizations which formed in the decades after statehood in response to:

- (1) the destitute living conditions of the Hawaiian people, especially in comparison to Caucasians, Chinese and Japanese in the islands;
- (2) assaults upon the last remaining rural enclaves which are strongholds of continuity of Hawaiian culture by tourism, commercial, industrial and military development; and
- (3) the awareness of indigenous rights and sovereignty through the movements of Afro-Americans, Hispanics, Asian-Americans and Native American peoples as well as the anti-Vietnam War and student movements.

During the same period a new awareness and pride in Hawaiian culture and heritage led to the establishment of Hawaiian language pre-schools and Hawaiian language immersion classes in Hawai'i public schools; the flourishing of hula halau (traditional Hawaiian chant and dance schools); Hawaiian music; Hawaiian studies from the elementary to university level; and the revival of the traditional navigational arts and skills.

A listing of the issues around which various Hawaiian organizations have formed since statehood would result in a checklist of the concerns which are components of Hawaiian sovereignty. Hawaiians seek to improve and uplift Hawaiian health, education and standard of living. Hawaiians seek protection and perpetuation of natural and cultural resources essential for religious, cultural, and subsistence custom, belief, and practice. Hawaiians seek full redress for past injustices; restitution of all of the territory of the

Hawaiian nation; compensation for mismanagement and destruction of national lands and natural resources; and most important, the re-establishment and recognition of a government to exercise sovereignty and self-determination.

All of the above concerns were carried to the 1993 session of the Hawai'i State Legislature. In response, the legislature passed Act 359 which established the Hawaiian Sovereignty Advisory Commission. The stated purpose of the Commission is:

To acknowledge and recognize the unique status the native Hawaiian people bear to the State of Hawaii and to the United States and to facilitate the efforts of native Hawaiians to be governed by an indigenous sovereign nation of their own choosing. In the spirit of self-determination and by this Act, the Legislature seeks counsel from the native Hawaiian people on the process of:

- (1) Holding a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing;
- (2) Providing for a mechanism to democratically convene a Hawaiian convention so that native Hawaiians may openly and freely discuss and decide the form and structure of that government; and
- (3) Describing the process for the conduct of fair, impartial, and valid elections including a referendum election.

The stated tasks of the Commission are to advise the legislature on:

- (1) Conducting special elections for a plebiscite, election of delegates to a convention, and the ratification of the convention's work;
- (2) Apportioning voting districts;
- (3) Establishing the eligibility of convention delegates;
- (4) Conducting educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention;
- (5) Establishing the size and composition of the convention delegation; and
- (6) Establishing the dates for the special elections.

In July 1993, 50 Hawaiian organizations, representing over 100,000 members nominated over 100 persons to serve on the Hawaiian Sovereignty Advisory Commission. Governor John Waihee appointed 20 individuals.

WORK OF THE HAWAIIAN SOVEREIGNTY ADVISORY COMMISSION

The Commission convened in August 1993 and met, on the average, once every two weeks. Commissioners set up an executive committee and five standing committees to carry out their mandate - Education, Apportionment, Elections, Convention, and Visioning Beyond the Legislative Mandate. A Legislative committee was set up to formulate legislation and to report on the work of the Commission to the Hawai'i State Legislature. It is chaired by the vice-chairperson of the Commission.

The chairperson, vice-chairperson and members of the apportionment committee have agreed, in accordance with the terms of Act 359, that they will not run as candidates in any of the elections set up through the work of the Hawaiian Sovereignty Advisory Commission. Any member of the Commission who plans to run as a candidate in any of the elections set by the Commission has recused himself/herself from decisions relating to apportionment.

An executive committee, comprised of the chair, vice-chair, and committee chairpersons was set up to review personnel, budget, and related administrative matters. It was also responsible for developing enabling legislation based on the recommendations of the standing committees and as approved by the Commission.

The education committee is chaired by Mahealani Kamau'u. It was set up to develop recommendations with respect to educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention. Committee members shall work closely with the convention committee to develop recommendations with respect to the convention's timeframe, scope, and agenda.

The apportionment committee is chaired by La France Kapaka-Arboleda. It was set up to develop recommendations with respect to (1) establishing the size and composition of the convention delegation, and (2) apportionment of voting districts.

The convention committee is chaired by A'o Pohaku Rodenhurst. It was set up to review and suggest revisions to the ballot question and to develop recommendations with respect to the convention's timeframe, scope, and agenda.

The elections committee is chaired by Kina'u Kamali'i. It was set up to develop recommendations with respect to the conduct of special elections relating to Act 359. The responsibilities include defining the qualifications of

voters, defining the eligibility of convention delegates, developing a timetable for the election of delegates, and making a plan for the conduct of special elections.

"Visioning Beyond The Legislative Mandate" was set up to explore, develop, and recommend options to the Commission outside the scope of Act 359. The chairperson was Dennis "Bumpy" Kanahele. When he resigned from the Commission, the committee's vice-chairperson, Poka Laenui assumed the responsibility of chairperson. The committee wrote to the United Nations Center For Human Rights requesting assistance from the United Nations Human Rights and decolonization system, including UNTAG and UNTAC in the process of bringing about self-determination in Hawai'i. Specifically, assistance was requested to assure that the process of self-determination in Hawai'i is exercised fairly and in a manner consistent within the standards of self-determination as clarified by the U.N. system.

From October 12 through 21, 1993, the Commission held 16 public information meetings with Hawaiians in the islands and one meeting with Hawaiians living in America. A total of 1,715 people attended the meetings. Meetings were held on Moloka'i at the Kaunakakai Elementary School; on Kaua'i at the Waimea Canyon School and Kapa'a High School; on Lana'i at the Lana'i Senior Citizens Center; on Maui at Helene Hall (Hana) and Hale Pomaika'i (Paukukalo); on Hawai'i at Ke'alakehe Intermediate School (S. Kona); Kuhio Hale Hawaiian Homes Hall (Waimea); Hilo Union Elementary School; on O'ahu at Blanche Pope Elementary School (Waimanalo), Samuel Wilder King School (Kane'ohe), Kahuku High & Intermediate School; Nana'ikapono Elementary School, Wai'anae High School, Highlands Intermediate School (Pearl City), Central Intermediate School (Honolulu); and at the Convention of the Association of Hawaiian Civic Clubs in Las Vegas, Nevada.

In the public meetings the Commission members presented worksheets from its committees and asked the community to give input on the following questions:

Part 1. The legislature proposes the following question for a Hawaiian plebiscite in November 1994:

"Shall a Hawaiian convention be convened to propose an organic document for the governance of a Hawaiian sovereign nation?"

- (1) Is this the best way to ask the question?
- (2) Are Hawaiians ready to begin working together for Hawaiian sovereignty?
- (3) Will Hawaiians be ready to vote about this in November 1994?
- (4) What information do Hawaiians need to be ready to vote on this?
- (5) How should overseas Hawaiians participate in the process?

Part 2. If Hawaiians vote yes, that they want a constitutional convention the following needs to be considered:

- (1) How shall elections for delegates be run?
- (2) Who can run for election?
- (3) How will representation be apportioned?
- (4) When should the election be held?
- (5) What shall be the scope of the convention?

Following the public meetings, the commission and its committees met to summarize the input from the community and to develop draft proposals for community review and discussion which included the concerns and suggestions from the community. The new draft proposals were published in The Honolulu Advertiser and Star-Bulletin on December 15, 1993. The January edition of Ka Wai Ola O OHA also published the draft proposals. Additional copies were distributed through Hawaiian community organizations.

The Commission felt accountable to the Hawaiian community and obligated to generate input from the community before submitting final proposals and a final report to the Hawai'i State Legislature. From January 11, 1994 through January 21, 1994 and February 4, 1994 the Commission held 20 public meetings to discuss their proposals for submission to the Legislature. A total of 640 people attended the meetings. Meetings were held on Moloka'i at the Mitchell Pau'ole Center; on Kaua'i at the Waimea Canyon School and Anahola Clubhouse; on Lana'i at the Lana'i High School Cafeteria; on Maui at Helene Hall (Hana) and Hale Pomaika'i (Paukukalo) and Ka'anapali Beach Hotel; on Hawai'i at Ke'alahake Intermediate School (S. Kona); Kuhio Hale Hawaiian Homes Hall (Waimea); Keaukaha School, and Pahala High School; on O'ahu at Waimanalo Elementary School (Waimanalo), Benjamin Parker Elementary School (Kane'ohe), Kahuku High & Intermediate School; Nana'ikapono Elementary School, Wai'anae High School, Highlands Intermediate School (Pearl City), Central Intermediate School (Honolulu), La'ie Elementary School, and Castle High School.

Upon completion of the public information meetings the Hawaiian Sovereignty Advisory Commission drafted two legislative bills which were introduced before the deadline for introduction of bills on January 28, 1994. S.B. 3153 and its companion H.B. 3630 contain proposals for a Hawaiian Sovereignty Election Board to conduct a sovereignty plebiscite in 1995 and to provide a valid process to formalize the form, structure, and status of a Hawaiian nation. S.B. 3300 and its companion H.B. 3629 will provide for a moratorium on the sales and exchanges of ceded lands and Hawaiian Homelands.

Summary Of Community Concerns

Input from the 2,355 persons who attended the 36 public information meetings can be summarized in the following four major concerns:

- (1) Provide more information and education on sovereignty before the plebiscite is held.
- (2) Hawaiian groups need to work together and provide better leadership.
- (3) Set up a process that is independent of the State.
- (4) Stop State actions that decrease or mis-use Hawaiian national trust lands (Hawaiian Homelands, ceded public lands trust).

Response To Community Concerns

In its work and recommendations to the Legislature, the Commission has attempted to respond to the concerns of the community.

(1) Provide more information and education on sovereignty before the plebiscite is held.

- The Commission is coordinating education efforts with other Hawaiian organizations, particularly with Hui Na'auao.
- The Commission will hold another round of public education meetings before dissolving in August, 1994.
- The Commission has sponsored Russell Barsh to speak on Indigenous Rights and Francis Boyle to speak on independence. The Commission will sponsor more guest speakers to lecture on various models of sovereignty.
- The Commission will conduct a poll in Spring 1994 to better assess and develop a multi-media educational program.

(2) Hawaiian groups need to work together and provide better leadership.

- 240 persons representing 189 organizations met with the Commission on February 5, 1994.
- The Commission will continue to coordinate educational efforts with Hawaiian organizations.

(3) Set up a process that is independent of the State.

- The Commission has submitted legislation that, if passed, will:

1. Dissolve the Commission as of August 31, 1994; and
2. Have Hawaiian organizations and 'ohana nominate and select representatives to a Hawaiian Sovereignty Elections Board to replace the Commission

(S.B. 3153 and H.B. 3630)

(4) Stop State actions that decrease or mis-use Hawaiian national trust lands (Hawaiian Homelands, ceded public lands trust).

The Commission has submitted legislation that, if passed, will place a moratorium on the sales and exchanges of ceded lands and the Hawaiian Homelands.

(S.B. 3300 and H.B. 3629)

Meeting With Hawaiian Organizations

A meeting with Hawaiian organizations was organized on February 5, 1994. The turnout was excellent and the input encouraging. A total of 240 persons representing 189 organizations participated in the discussions and gave input on the legislative proposals. Following that meeting the final report to the Hawai'i State Legislature was drafted for submission on February 14, 1994.

There was overwhelming support from the representatives of Hawaiian organizations to continue the process initiated by the Hawaiian Sovereignty Advisory Commission with state funding. There was also general support for the sovereignty plebiscite to be conducted. Most felt that it should be held in 1995, however, there was also concern expressed that the process may be proceeding to fast. Most participants felt that the wording of the plebiscite question should acknowledge that the process had already begun and should continue. It was suggested for example, that the question could be reworded to, "Shall a process continue to restore the sovereign Hawaiian nation?" or "Shall the restoration of the sovereign Hawaiian nation continue?"

There was consensus among all of the participants that there is a need for more education and outreach to Hawaiians of all ages in all communities in Hawai'i about sovereignty, using a variety of media. Outreach and education should also extend to Hawaiians in America. There was also

consensus that the Hawaiian organizations should coordinate and expand their educational efforts. The call for a moratorium on the sales and exchange of the ceded public lands trust also received consensus support. Many thought that the submerged lands and water resources should be included. Most of the organizations also supported a moratorium for the Hawaiian Homelands. However, the State Hawaiian Homestead Association groups wanted to exclude the Hawaiian Homelands from the moratorium bill. The Commission, in its meeting on February 12, 1994 decided to exclude the Hawaiian Homelands from its moratorium bill.

Many of the Hawaiian organizational representatives felt that the Hawaiian Sovereignty Advisory Commission should continue as presently constituted but not as merely an "advisory body". While not opposed to having an independent Sovereignty Elections Board selected by Hawaiian organizations, they felt that the present Commission had accomplished a lot and should continue to work on the process it had initiated. They felt that the process for selection of the Sovereignty Elections Board should be defined more clearly.

RECOMMENDATIONS TO THE HAWAII STATE LEGISLATURE

1. Establish an independent Hawaiian Sovereignty Elections Board to conduct a Hawaiian sovereignty plebiscite and should the plebiscite be approved by a majority of qualified voters, provide for a fair, impartial, and valid process to formalize the form, structure, and status of a Hawaiian nation.

A. Composition of the Hawaiian Sovereignty Elections Board

17 Members including two members each from Hawai'i, Maui, Lana'i, Moloka'i, O'ahu, Ni'ihau, and Kaua'i; two members representing non-resident Hawaiians; and one ex-officio member representing Kaho'olawe.

B. Selection Process For Sovereignty Elections Board

The members shall be nominated by Hawaiian organizations and selected by Hawaiian organizations. The Hawaiian Sovereignty Advisory Commission has already convened representatives of 189 organizations. These and other interested Hawaiian organizations and 'ohana will be asked to nominate persons to serve on the Sovereignty Elections Board. The names and resumes of those nominated will be circulated with a ballot. Hawaiian organizations will be asked to select the members of the Elections Board. The process and method of selection will be worked out by the Commission in dialogue with Hawaiian organizations and 'ohana on each island.

C. Responsibility and Authority of Hawaiian Sovereignty Elections Board:

1. Conduct a 1995 special mail-out election on the plebiscite question: "E ho'omaka 'anei kākou e ho'okō i na kuleana o ka ho'iho'i ea o kō Hawai'i aupuni?"

"Shall a process begin to restore the sovereign Hawaiian nation?"

2. Conduct educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convening of delegates.

3. Provide for a fair, impartial, and valid process to formalize the form, structure, and status of a Hawaiian nation. This will include:

- a. Conducting special elections
- b. Providing for an apportionment plan
- c. Establishing the eligibility of delegates
- d. Establishing the size and composition of delegations
- e. Establish the dates for special elections
- f. Conducting ratification of the work of the delegations
- g. Other responsibilities for the conduct of elections and the convening of delegates
- h. Establishing task forces and committees as deemed necessary

D. Timeframe

1. July 1, 1994 - August 1, 1994

Hawaiian organizations select Hawaiian Sovereignty Elections Board members

2. August 31, 1994

The Hawaiian Sovereignty Advisory Commission dissolves.

Hawaiian Sovereignty Elections Board convenes and develops a process and timetable to formalize the form, structure, and status of a Hawaiian nation.

2. Provide For A Hawaiian Sovereignty Plebiscite In 1995.

A. The plebiscite question will be posed in both English and Hawaiian on the ballot. The question shall be:

"Shall A Process Begin To Restore The Sovereign Hawaiian Nation?"

"E Ho'omaka 'Anei Kākou E Ho'okō I Na Kuleana O Ka Ho'ihō'i Ea O Kō Hawai'i Aupuni?"

The ballot shall be accompanied by an explanation that a "yes" vote means there will be an election of delegates who will be convened to formalize the structure and status of a Hawaiian nation, and that a "no" vote means there will be no such process funded by the legislature at this time.

B. Eligibility To Vote In The Plebiscite

All Hawaiians, at least 16 years of age, resident and non-resident, U.S. citizens and non-U.S. citizens, including those still serving prison sentences.

Hawaiians

This is a process for the indigenous people of Hawai'i, the Native Hawaiians. This includes any descendant of the races inhabiting the Hawaiian islands prior to 1778. The Commission, in its deliberations, acknowledged that there are two tracts of sovereignty and self-determination in Hawai'i. Along the first tract of human rights, that of the rights of indigenous people, clearly, the rights of the Native Hawaiian people must be secured. They must be afforded an opportunity to choose for themselves the form of their own self-governance and exercise control over their own institutions, ways of life and economic development and to maintain and develop their identities, language, and religions. This would be necessary if Hawai'i remains a part of the United States or if Hawai'i chooses to be independent of the United States. There is an immediate need for the indigenous Hawaiian people to formalize the structure and status of a Native Hawaiian government. Along the second tract, that of the rights of indigenous and non-indigenous people who have become 'keiki o ka aina" and whose allegiance attaches to Hawai'i, the process of decolonization must begin. The people of Hawai'i must be given the choice of determination ranging from integration within the United States of America to emerging as an independent nation.

The Commission, after discussing these issues at length, receiving the advice of attorneys of international law, and hearing the input of the community, determined that the process for a plebiscite and for the convening of delegates at this point is for the indigenous Hawaiians. When the delegates convene they may, in addition to formalizing the structure and status of a Native Hawaiian government, lay the foundation for organizing with non-indigenous people in Hawai'i the process for the decolonization of Hawai'i. That is for the elected delegates to decide.

Hawaiians At Least 16 Years Of Age

Among Hawaiians, 75.8 percent are below the age of 35. It is truly the upcoming generations of Hawaiians who will be the leaders of the Hawaiian nation. Allowing our youth who are 16 years and older to vote will provide them with the incentive to become educated and involved in the process of nation building. It will also set them apart from their peers in high school with special rights and responsibilities.

Resident And Non-Resident Hawaiians

The plebiscite is an issue for indigenous Hawaiians to vote in, wherever they may now reside. One of the impacts of colonization is migration to the colonizing country. There are 70,551 Hawaiians living in continental United States. Including interested Hawaiians living outside of Hawai'i to participate in the process will allow them to give support to Hawaiians living in Hawai'i. Many Hawaiians living outside of Hawai'i have maintained close family ties and frequently visit home. A growing number of Hawaiians living away have returned home to retire. Among independent Pacific island nations, such as the Cook Islands, Western Samoa, and Belau, there are provisions for those living overseas to participate in parliamentary elections and to be represented in parliament.

Hawaiians Who Are U.S. Citizens And Who Are Not U.S. Citizens

This would include Hawaiians who may have been born outside of the United States as well as Hawaiians who do not consider themselves to be U.S. citizens, but only citizens of Hawai'i. Some of our Hawaiian people no longer identify as U.S. citizens because of the role of the U.S. in colonizing Hawai'i and depriving Hawaiians of human and civil rights. They no longer choose to associate themselves with the colonizer which is responsible for the destitute conditions of many Hawaiians today.

Hawaiians Who May Still Be Serving Prison Sentences

Hawaiians comprise 35 percent of the adult inmate population, although Hawaiians make up only 20 percent of the population of Hawai'i. Statistics indicate that Hawaiians do not have higher arrest rates than other ethnic groups, they have higher conviction and longer incarceration rates for the crimes for which they are arrested. This is indicative of the problem that Hawaiians do not have equal access to representation under the criminal justice system. Historically and at present most of the crimes committed by Hawaiians are against property, not people. This is indicative of their inability or unwillingness to accept and adapt to Western culture. Many Hawaiians in prison can be considered to be victims of colonization and, essentially, political prisoners. Outreach and education will also be conducted in the prisons to prepare those who are interested to participate in the plebiscite.

C. Process

Mailout ballot.

D. Timeframe

The plebiscite shall be held in 1995. While the final timetable should be determined by the Hawaiian Sovereignty Elections Board, the Hawaiian Sovereignty Advisory Commission recommends the following:

July 1, 1994 through March 26, 1995

Register to vote.

May 1, 1995

Ballots will be mailed out.

June 11, 1995

All ballots must be received back in the mail.

3. Moratorium

The Hawaiian community on each island has almost unanimously called for a measure to ensure that Hawaiian national trust lands, the Hawaiian Homelands and the ceded public trust lands, will not be decreased or misused. The community does not want to get involved with a lengthy process to restore formal recognition of a Hawaiian sovereign nation and end up without a land base. The community seeks a good faith gesture from the state government to protect the primary land base of the Hawaiian nation - the ceded public lands trust and the Hawaiian Homelands. While there is no consensus on the Commission on how to address this concern, there is general agreement that it has to be addressed.

The Commission is asking the Hawai'i State Legislature to pass a measure to place a moratorium on the sales and exchanges of all lands ceded to the United States by the Republic of Hawai'i or acquired in exchange for lands so ceded, and returned to the State of Hawai'i by virtue of section 5(b) of the Admissions Act, excluding the Hawaiian Homelands, until a sovereign Hawaiian entity is established and recognized. This would not prohibit the state from leasing the lands to third parties or state agencies. It does not prohibit transfers of these lands to the Office of Hawaiian Affairs or the Department of Hawaiian Homelands, or land exchanges between those Hawaiian agencies and other state agencies as long as the combined land holdings of the public land trust and the Hawaiian Homeland trust are not reduced.

4. Education

The clearest mandate from the Hawaiian community is to conduct more education on sovereignty before the sovereignty plebiscite is held. The Commission is coordinating education efforts with other Hawaiian organizations, particularly with Hui Na'auao. The Commission will also approach the Department of Education and private schools to assist in sovereignty education at all levels.

The Commission has sponsored Russell Barsh to speak on Indigenous Rights and Francis Boyle to speak on independence. The Commission will sponsor guest speakers on various models of sovereignty. A 30 minute video on indigenous rights and examples of nation-within-nation Native American nations will be produced from the guest lecture presentations. A 30 minute video on independence and on models of independent nations in the Pacific will be produced from the guest lecture presentations. The videos will be aired on public access channels and be made available in schools and libraries.

The Commission will conduct a poll in Spring 1994 to better assess the support in the Hawaiian community for sovereignty and to develop a multi-media educational program to reach out to all levels of the community. A program of television, radio, and newspaper advertising will be developed to begin to educate the Hawaiian community about the Hawaiian sovereignty plebiscite. The Commission will hold a round of public education workshops before dissolving in August, 1994.

5. Funding

Funding is requested for:

Personnel Services

Legal Services

Education and Research

Elections Administration

Voter Services

Operations

The total request is \$1, 991,156.00

Recommendations For Consideration By The Hawaiian Sovereignty Elections Board

As pointed out above, Act 359 set up the Hawaiian Sovereignty Advisory Commission to advise the legislature on how to convene a convention to draft an organic document for the governance of a Hawaiian sovereign nation. In response to concerns raised by the community about state control over the process to formalize the form, structure, and status of a sovereign Hawaiian nation, the Hawaiian Sovereignty Advisory Commission is recommending that the decision about such a process be developed and finalized by an independent Hawaiian Sovereignty Elections Board. Our Commission did research, discuss and develop proposals regarding such a process. We would like to forward our recommendations regarding a process for convening delegates in a convention to the Hawaiian Sovereignty Elections Board for consideration in their deliberations.

Convention

Elections for the convention shall be conducted under policies and rules established by the Hawaiian Sovereignty Elections Board. The Board may contract with a United Nations agency or a private organization to assist in the conduct of the elections. In order to assure impartiality in the conduct of the elections, the Board should follow up on the efforts of the Hawaiian Sovereignty Advisory Commission and seek the assistance of the United Nations Center For Human Rights and its decolonization system, including UNTAG and UNTAC. It is important the the elections be exercised fairly and in a manner consistent with internationally accepted standards of self-determination as clarified by the U.N. system.

The work of delegates to a convention to re-establish Hawaiian sovereignty will be to define and develop the powers of an indigenous nation. These include but are not limited to the following:

Powers Of An Indigenous Nation

1. Protect Indigenous Spirituality

Protect cultural, subsistence, and religious belief, custom and practice.

2. Decide Citizenship Of the Indigenous Sovereign Nation

Residency, blood quantum, enroll members, adopt members.

3. Form A Government

Develop an organic document or constitution.

4. Power To Make Laws

Elect representatives to pass laws, manage the operation of the administration of the indigenous government, protect cultural and natural resources.

5. Power To Tax

Taxes are needed to pay for water, sewage, waste disposal, roads, schools, hospitals, social services, protect natural and cultural resources.

6. Control How National Treasury Funds Are Spent

Control funds which derive from business taxes, individual taxes, development of natural resources, land claims, court fines, grants, investments, foreign aid, permits, leases, and fees.

7. Administer Justice

Enforcement of laws, courts, conflict resolution in accordance with tradition and custom.

8. Control Domestic Relations

Support health, education, and welfare of members.

9. Manage Land And Natural Resources

Manage in accordance with indigenous values, e.g. lokahi, aloha 'aina, malama 'aina.

10. Regulate Commerce

Business tax system, business licensing, standards for professional practice, zone lands, regulate government and private lands, penalties for violations, environmental standards, regulate trade.

11. Defend Sovereignty

Enter into defense pacts with other nations, participate in international organizations that defend human rights.

12. International Relations

Enter into agreements with other nations, participate in government-to-government relations, belong to international organizations, issue passports.

13. Monetary System

Regulate coining and printing of currency, use another sovereign's monetary system without reducing own sovereignty.

(Compiled from materials by Hui Na'auao, Ho'okahua Educational Packet)

Timetable

June 11, 1995	Plebiscite Ballots must be received.
July 1, 1995	Deadline for candidates to file to run for the convention.
August 15, 1995	Ballots for the election of candidates are mailed out.
September 30, 1995	Ballots for candidates are must be received back.
October 15 , 1995	Island conventions are convened and meet through January 17, 1996.
January 17, 1996	Election/selection of representatives to a central convention.
March, 1996	Central convention is held.
August 1996	Ratification of work of the convention by Hawaiian community.

Apportionment

Apportionment describes how representative political districts are established. Under the U.S. and Hawai'i constitutions and international standards of democracy every individual is entitled to one vote. O'ahu is the most heavily populated island, and given the principle of "one person/one vote," it has dominated statewide political decisions. Commission members are considering several proposals which attempt to balance the democratic principle of "one person/one vote" with the unique and equally compelling interests of neighbor island residents. One model for this approach is the U.S. congress itself, which abides by the "one person/one vote" requirement for the U.S. House of Representatives and exempts itself from the "one person/one vote" requirement for the U.S. Senate which has 2 senators from each state, regardless of size of population.

1. Island Conventions

Delegates will be elected on the basis of population in accordance with the principle of "one person/one vote."

After a period of registration, those who have registered elect delegates to represent their district in the island convention.

The number of delegates to island conventions are apportioned on the basis of district population in accordance with the principle of "one person/one vote."

The Moku districts at the time of Ka Mahele were as follows. The number of delegates from each moku to the island convention is based upon the percentage of Hawaiians who live in each moku according to the 1990 census.

District	# per moku	% of island	# of delegates
<u>Hawai'i (9 moku)</u>			
1. North Kohala	1,028	4	3
2. S. Kohala	2,215	10	6
3. N. Kona	3,655	16	10
4. S. Kona	1,800	8	5
5. Ka'u	968	4	3
6. Puna	3,953	17	11
7. N. Hilo	1,133	5	3
8. S. Hilo	7,524	33	20
9. Hamakua	844	4	2
TOTAL: 9	23,120		63
<u>Maui (4 moku)</u>			
1. Lahaina	1,668	14	7
2. Wailuku	5,056	41	20
3. Makawao/Kaho'olawe	1,598	13	6
4. Hana	4,028	33	16
TOTAL: 4	12,350		49
<u>Lana'i (1 moku)</u>	287	100	31
<u>Moloka'i (1 moku)</u>	3,282	100	31
<u>Kaua'i (5 moku)</u>			
1. Waimea	1,528	20	8
2. Hanalei	579	8	3
3. Kawaihau	3,021	40	17
4. Lihu'e	1,181	16	6
5. Koloa	1,201	16	7
TOTAL: 5	7,510		41
<u>Ni'ihau / Lehua (1 moku)</u>	226	100	31
<u>O'ahu (7 moku)</u>			
1. Ko'olaupoko	13,523	15	23
2. Ko'olaupoko	10,032	11	17
3. Ewa	16,782	18	29
4. Honolulu	26,488	29	45
5. Wahiawa	7,408	8	13
6. Waialua	2,489	3	4
7. Wai'anae	15,245	17	26
TOTAL: 7	99,477		157
<u>America</u>	70,551	100	127

2. Central Convention

There are several apportionment options that were considered for the central convention:

Option 1 : 3 seats per moku regardless of population

Each district is allowed an equal number, of delegates, such as three each per district to the central convention. Overseas Hawaiians would be treated as living in one district and have the same number of delegates. If each district has 3 delegates, the total number of delegates would be 87. The break down per island would be: O'ahu 21; Ni'ihau 3; Kaua'i 15; Moloka'i 3; Lana'i 3; Maui/Kaho'olawe 12; Hawai'i 27; Hawaiians in America 3.

Option 2: number of delegates per island according to population & trust lands

The number delegates permitted each island is calculated on the island's total share of the population and total share of the trust lands. America gets the same number of delegates as Lana'i and Ni'ihau. Under this scheme the total number of delegates is 203. The break down is: O'ahu 70; Ni'ihau 1; Kaua'i 15; Moloka'i 6; Lana'i 1; Maui/Kaho'olawe 21; Hawai'i 88; Hawaiians in America 1.

Option 3: at least one vote per island: at-large delegates

The size of each island's delegation is determined by that island's proportionate share of the total Hawaiian population, except that each island is guaranteed a minimum of one vote, no matter how small its population. Delegates also run "at-large," the total number calculated on the basis of each island's population. Non-residents must identify with a Hawaiian district in order to participate in elections. Under this scheme the total number of delegates is 201. The break down is: O'ahu 133; Ni'ihau 1; Kaua'i 11; Moloka'i 5; Lana'i 1; Maui/Kaho'olawe 18; Hawai'i 33; Hawaiians in America would vote in a Hawai'i district.

Option 4: bicameral central convention

A "two-house" system modeled after the U.S. Congress. One set of delegates is elected from districts on the basis of population. A second set of delegates is elected on the basis of geography - 5 per island district without regard to population. Proposed measures must be reviewed and approved by both sets of delegates at a central convention in order to pass. Under this scheme the total number of delegates is 240. The break down is: O'ahu 138; Ni'ihau 5; Kaua'i 16; Moloka'i 10; Lana'i 5; Maui/Kaho'olawe 23; Hawai'i 38; Hawaiians in America 5.

Option 5: Majority + Island Caucus

Delegates to a central convention are elected from island districts on the basis of district population. In order for a measure to pass, a simple majority of total delegates plus a majority of each one of five island delegations must approve. Under this scheme the total number of delegates is 207. The break down is: O'ahu 50; Ni'ihau 7; Kaua'i 36; Moloka'i 7; Lana'i 7; Maui/Kaho'olawe 29; Hawai'i 64; Hawaiians in America 7.

Option 6: Na Moku Eha, Na Moku 'Aina / The Traditional Chiefdoms, The Traditional Island Districts

Like the individual fifty states which comprise the nation of the United States, the traditional four chiefdoms associated with the island-unifying chiefs Manokalanipo, Kaku'ihewa, Kama, and Keawe formed the ke kua or backbone of the Hawaiian nation.

Manokalanipo - Kaua'i and Ni'ihau (4)

Kaku'ihewa - O'ahu (4)

Kama - Maui, Moloka'i, Lana'i and Kaho'olawe (4)

Keawe - Hawai'i (4)

Recommendation is to assign four delegates from each traditional unit.

These delegates would reside within the islands comprising the former chiefdoms, and be elected at-large by all eligible voters.

The next important level of political organization within the traditional chiefdoms was the traditional island districts which functioned as the tax-equivalents of counties within the nation:

Manokalanipo - Kaua'i: Hanalei, Kawaihau, Lihu'e, Koloa, Waimea, Ni'ihau (6)

Kaku'ihewa - O'ahu: Ko'olau Loa, Ko'olau Poko, Waialua, Wai'anae, 'Ewa, Kona (Honolulu) (6)

Kama - Maui: Hana, Makawao (Kaho'olawe), Wailuku, Lahaina, Moloka'i, Lana'i (6)

Keawe - Hawai'i: Kohala, Kona, Ka'u, Puna, Hilo, Hamakua (6)

Recommendation is to assign one delegate from each unit. These delegates would reside in the affected district, and be elected at-large. A number of delegates could then be selected based upon the population of each island district using the one-person/one-vote concept.

Under this scheme the total number of delegates is 148. The break down is: O'ahu 76; Ni'ihau/Kaua'i 15; Moloka'i/Lana'i/Maui/Kaho'olawe 21; Hawai'i 26; Hawaiians in America 10.

Historical Findings Of The Hawaiian Sovereignty Advisory Commission

Native Hawaiians comprise a distinct and unique indigenous people with a historical continuity to the original inhabitants of the Hawaiian archipelago who exercised sovereignty as a nation centuries before the beginning of continuous European and American contact in 1778.

The Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions.¹

The Constitution and statutes of the State of Hawai'i acknowledge the distinct land rights of Native Hawaiian people as beneficiaries of the public lands trust which is managed by the State of Hawai'i. The constitution also reaffirms and protects the unique right of the Hawaiian people, to practice and perpetuate their cultural, religious and subsistence customs, beliefs, practices, and language.²

Centuries before 1778, the beginning of continuous European and American contact, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistence social system based on communal land tenure with a sophisticated language, culture, and religion. They exercised sovereignty over the Hawaiian archipelago. Hawaiian ancestral chants trace the origins from Papa - the earth; Wakea - the sky; Kane - springs and streams; Kanaloa - the ocean; Pele - the volcano. Hawaiians are inseparable from the 'aina - earth, sea, sky and the magnificent power of these life forces. Family genealogies link contemporary Hawaiians

¹ This section is based upon the preamble to the 1992 reauthorization of the Native Hawaiian Health Care System Act which succinctly summarizes the complicated historical and legal basis for recognition of the distinct and unique rights of Native Hawaiians under federal and state law. U.S. Senate, 102d Congress, 2d Session, Report 102-309, 1992 "Native Hawaiian Health Care Improvement Act." It also incorporates findings of the Hawaiian Sovereignty Advisory Council to the Hawai'i State Legislature, January 1992.

² Article X. Education, Section 4. Hawaiian Education Program (to promote the study of Hawaiian culture, history, and language ; Article XII. Hawaiian Affairs, Section 1. Hawaiian Homes Commission Act, Section 2. Acceptance of Compact, Section 3. Compact Adoption; Procedures After Adoption, Section 4. Public Trust, Section 5. Office of Hawaiian Affairs, Section 6. Powers of Board of Trustees, Section 7. Traditional and Customary Rights; Article XV. Section 4. Official Languages. HRS Chapter 7 - 1, Chapter 174C - 101.

to astronomers, navigators, planters, fishermen, engineers, healers, and artisans who settled Hawai'i and constructed great walled fishponds, irrigated taro terraces, dryland agricultural systems, heiau (temples), pu'u honua (refuge areas), adze quarries, coastal and inland trails and extended family settlements. Hawaiians lived in harmony and balance with the land, the akua (gods), and each other - lokahi (balance and harmony). Each ahupua'a valley system provided the families living within them the necessities of life - from abundant marine life in the ocean, to fresh water streams and springs, gentle sloping fertile lands for cultivation, and forests with trees for building houses, canoes, as well as plants for healing.³

As trading in cultivated food crops and sandalwood with western traders increased the Hawaiian people suffered periodic famine and were continuously exposed to devastating epidemics of foreign disease. A unified monarchical government of all the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i (1779 - 1819). During this time, Hawai'i was among the first to recognize the independence of Argentina. Trade was conducted with China, England, and the United States on a regular basis. In 1819, Kamehameha died and his successors abolished formal observance of traditional religious ritual and ceremony. Rival chiefs defended the traditional gods but were defeated. In the following year, American missionaries began to settle Hawai'i and convert Hawaiians to Christianity. By 1823, after only 45 years of contact, the Hawaiian people had declined to 135,000 from between 400,000 to 800,000 in 1778. Commercial whaling attracted increasing numbers of foreign settlers who demanded rights of citizenship and private ownership of land.⁴

³ E.S. Craighill Handy, The Hawaiian Planter - Volume I: His Plants, Methods and Areas of Cultivation. Bernice Pauahi Bishop Museum Bulletin 161. Honolulu: Bernice P. Bishop Museum, 1940.; E.S. Craighill Handy and Mary Kawena Pukui, The Polynesian Family System in Ka'u, Hawai'i. Wellington: Polynesian Society, 1958; reprint Tokyo: Charles E. Tuttle Company, 1976; Kamakau, Samuel, Ruling Chiefs of Hawaii. Honolulu: Kamehameha Schools Press, 1961; Kamakau, Samuel, Ka Po'e Kahiko: The People of Old. BPBM Spec. Publ. 51., 1964; Kamakau, Samuel, The Works of the People of Old. BPBM Spec. Publ. 61, 1976. Malo, David, Hawaiian Antiquities. trans. Dr. Nathaniel B. Emerson, Honolulu: Bishop Museum Press, 1971; Fornander Collection of Hawaiian Antiquities and Folk-Lore. Honolulu: T.G. Thrum (ed.). BPBM Memoirs 4,5,6, 1916 - 1920; Beckwith, Martha W., Hawaiian Mythology. Honolulu: UH Press, 1970; Kalakaua, David, King of Hawaii, The Legends and Myths of Hawaii: The Fables and Folklore of a Strange People. Tokyo & Rutland: Charles E. Tuttle, 1973.

⁴ Kamakau, 1961; Ralph S. Kuykendall, The Hawaiian Kingdom, Volume I, 1778 - 1854. Foundation and Transformation. Honolulu: University of Hawai'i Press; 1938; reprint Honolulu: The University Press of Hawai'i, 1980.

By 1840, King Kamehameha III transformed the government into a constitutional monarchy, having signed a Bill of Rights in 1839 and a Constitution for the Kingdom of Hawai'i in 1840. In 1845, despite petitions of protest signed by 5,790 Hawaiians, foreigners were allowed to become naturalized citizens and to hold public office. Ka Mahele in 1848 established a system of private land ownership which concentrated 99.2 percent of Hawai'i's lands among 245 chiefs, the Crown, and the Government. Less than one percent of the lands were given to 28 percent of the people, leaving 72 percent of the people landless. In 1850, foreigners were given the right to own land. From this point on foreigners, primarily Americans continued to expand their interests, eventually controlling most of the land, sugar and pineapple plantations, banks, shipping, and commerce. ⁵

Throughout the 19th century and until 1893, the United States recognized the independence of the Hawaiian Nation and extended full and complete diplomatic recognition to that Government. The United States government entered into treaties and conventions with the Hawaiian monarchs to govern friendship and commerce and navigation in 1826, 1842, 1850, 1855, 1875 and 1887. ⁶

By 1887, Hawai'i had treaties and conventions with Belgium, Bremen, Denmark, France, the German Empire, Great Britain, Hamburg, Hong-Kong, Italy, Japan, Netherlands, New South Wales, Portugal, Russia, Samoa, Spain, Swiss Confederation, Sweden, Norway, Tahiti, and the United States. ⁷ On November 28, 1843 Great Britain and France signed a joint declaration recognizing the independence of Hawai'i and

⁵ Kuykendall, 1980. Davianna McGregor, "Voices of Today Echo Voices of the Past" in Malama Hawaiian Land and Water, edited by Dana Naone Hall, Honolulu: Bamboo Ridge Press, 1985.

⁶ A convention negotiated December 24, 1826, a Treaty of Commerce, declared that the "peace and friendship" between the United States and Hawai'i was "confirmed and declared to be perpetual." The Tyler Doctrine of 1842 included Hawai'i within the U.S. sphere of influence by stating that it "could not but create dissatisfaction on the part of the United States at any attempt by another power, should such attempt be threatened or feared, to take possession of the islands, colonize them, and subvert the native government." There was also the Treaty of Friendship, Commerce and Navigation, August 24, 1850; Rights of Neutrals at Sea, March 25, 1855; Treaty of Commercial Reciprocity, September 1876; Treaty of Commercial Reciprocity, November 9, 1887. See *Treaties and Other International Agreements of the United States of America*, V. 8.

⁷ *Treaties and Conventions Concluded Between the Hawaiian Kingdom and Other Powers Since 1825.*

pledging never to take possession of Hawai'i. ⁸ Hawai'i was also a member of one of the first international governmental organizations, the Universal Postal Union. It had established approximately a hundred diplomatic and consular posts around the world. ⁹

In 1887, American planter interests organized a coup d'etat against King David Kalakaua forcing him to sign the Bayonet Constitution which took away his sovereign powers as king and the civil rights of Hawaiians. In 1889, 8 men were killed, 12 wounded, and 70 arrested in the Wilcox Rebellion which attempted to restore the Hawaiian Constitution. By 1890, non-Hawaiians controlled 96 percent of the sugar industry and Hawaiians were reduced to only 45 percent of the population due to the importation of Chinese, Japanese, and Portuguese immigrant laborers by the sugar planters. ¹⁰

In the year 1892 and 1893, the United States Minister Plenipotentiary assigned to the Kingdom of Hawai'i, John L. Stevens, conspired with a small group of non-Hawaiian residents of the Kingdom, including citizens of the United States, to overthrow the indigenous and lawful Government of Hawai'i. ¹¹

In pursuance of that conspiracy, the United States Minister and the naval representative of the United States caused 162 armed naval forces and medical corps of the United States to invade the sovereign Hawaiian Nation in support of the overthrow of the indigenous and lawful Government of Hawai'i and the United States Minister thereupon extended diplomatic recognition to a provisional government declared

⁸ Senate Ex. Doc. 52 Cong. 2 Sess., No. 57 p. 12.

⁹ F.M. Hustat, Directory and Handbook of the Kingdom of Hawai'i, 1892.

¹⁰ Davianna McGregor-Alegado, "Hawaiian Resistance: 1887 - 1889." Unpublished M.A. Thesis, UH, 1979

¹¹ .S. Congress. House. Report No. 243 "Intervention of United States Government in Affairs of Foreign Friendly Governments." 53rd Congress, 2d Session. December 21, 1893. Washington: Government Printing Office, 1893. U.S. Congress. Senate. Committee on Foreign Relations. "Hawaiian Islands." Report of the Committee on Foreign Relations With Accompanying Testimony and Executive Documents Transmitted to Congress from January 1, 1893 to March 19, 1894. Volumes I and II. Washington: Government Printing Office, 1894. Also referred to as "The Morgan Report." U.S. Congress. Senate. Committee on Foreign Relations. Report No. 227. "Report from the Committee on Foreign Relations and Appendix in Relation to the Hawaiian Islands, February 26, 1894." 53d Congress 2d Session. Washington: Government Printing Office, 1894. U.S. Department of State. "Papers Relating to the Mission of James H. Blount, United States Commissioner to the Hawaiian Islands." Washington: Government Printing Office, 1893.

by 18 conspirators, mostly American, without the consent of the native people of Hawai'i or the lawful Government of Hawai'i in violation of treaties between the two nations and of international law.¹²

Without warning or a declaration of war, this surprise attack upon a friendly and peaceful nation caught the government and its citizens totally unprepared to respond. Protesting the U.S. role in this conspiracy and receiving assurances of an immediate and fair investigation, the Queen, on January 17, 1893, trusted the "enlightened justice" of the United States and yielded, under protest, to the United States forces until an investigation could be completed and she could be restored. She wrote:

I Lili'uokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.

That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government.

Now to avoid any collision of armed forces, and perhaps the loss of life, I do under this protest and impelled by said force yield my authority until such time as the Government of the United States shall, upon the

¹² Close to 5:00 pm on January 16, 1893, 162 U.S. naval forces with 80 rounds of ammunition each, one gattling gun and one 37 millimeter revolving gun, landed at the foot of Nu'uauu Avenue and marched up Fort Street to Merchant Street. They were accompanied by a hospital corps with stretchers and medical supplies. Some troops were deployed to guard the U.S. consulate and some were sent to the U.S. Legation. The main body of three companies ultimately took up quarters at Arion Hall near the government building and the palace. William De Witt Alexander, *History of the Later Years of the Hawaiian monarchy and the Revolution of 1893*, Honolulu: Hawaiian Gazette Co., 1896.

In a report to Congress on December 18, 1893 President Cleveland observed that: There is as little basis for the pretense that such forces were landed for the security of American life and property. If so, they would have been stationed in the vicinity of such property and so as to protect it, instead of at a distance and so as to command the Hawaiian Government building and palace. Admiral Skerrett, the officer in command of our naval force on the Pacific station, has frankly stated that in his opinion the location of the troops was inadvisable if they were landed for protection of American citizens whose residences and places of business, as well as the legation and consulate, were in a distant part of the city, but the location selected was a wise one if the forces were landed for the purpose of supporting the provisional government; Cleveland, Grover, "Message of the President" December 18, 1893, in 53d Congress 2d Session, House of Representatives, Report 243, p. 7.

facts being presented to it, undo the action of its representative and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands.

Done at Honolulu this 17th day of January, A.D. 1893. 13

Queen Lili'uokalani, the lawful monarch of Hawai'i, and the Hawaiian Patriotic League, representing the aboriginal citizens of Hawai'i, promptly petitioned the United States for redress of these wrongs and for restoration of the indigenous government of the Hawaiian nation, but this petition was not acted upon.

In a message to Congress on December 18, 1893, then President Grover Cleveland reported fully and accurately on these illegal actions, and acknowledged that by these acts, described by the President as acts of war, the government of a peaceful and friendly people was overthrown, and the President concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires that we should endeavor to repair." The following are excerpts from his report:

The lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may safely be asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives.

But for the notorious predilections of the United States Minister for annexation, the Committee of Safety, which should be called the Committee of Annexation, would never have existed.

But for the landing of the United States forces upon false pretexts respecting the danger to life and property the committee would never have exposed themselves to the pains and penalties of treason by undertaking the subversion of the Queen's Government. . . .

And finally, but for the lawless occupation of Honolulu under false pretexts by the United States forces, and but for Minister Stevens' recognition of the provisional government when the United States forces were its sole support and constituted its only military strength, the Queen and her Government would never have yielded to the provisional government, even for a time and for the sole purpose of submitting her case to the enlightened justice of the United States. . .

¹³ Queen Lili'uokalani, Hawaii's Story By Hawaii's Queen (Boston: Lothrop, Lee & Shepard, Co., 1898; reprint Tokyo: Charles E. Tuttle Company, 1977) p. 387 - 388.

Believing, therefore, that the United States could not, under the circumstances disclosed, annex the islands without justly incurring the imputation of acquiring them by unjustifiable methods, I shall not again submit the treaty of annexation to the Senate for its consideration
...

By an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair. . . .

I instructed Minister Willis to advise the Queen and her supporters of my desire to aid in the restoration of the status existing before the lawless landing of the United States forces at Honolulu on the 16th of January last, if such restoration could be effected upon terms providing for clemency as well as justice to all parties concerned. ¹⁴

The provisional government refused to acquiesce to President Cleveland's request to restore the Queen to the throne. They continued to hold state power and lobby for annexation to the United States. Cleveland, not ready to shed American blood for the Hawaiian people and their Queen, left the matter to the broader authority of the Congress and took no further action.¹⁵

On July 4, 1894 the provisional government proclaimed the Republic of Hawai'i under a new constitution. ¹⁶

On January 7, 1895 royalists organized an armed insurrection aimed at restoring the Queen to the throne. The restoration was crushed. 220 royalists, including the Queen herself, were arrested and charged as prisoners of war for treason and concealment of treason.¹⁷

¹⁴ U.S. House of Representatives, 53rd Congress, 2nd Session, December 21, 1893, p.13 -14,

¹⁵ Alexander, 1896. Lili'uokalani, 1898.

¹⁶ Ibid.

¹⁷ Hawai'i State Archives. 1895 Insurrection File. Loomis, Albertine. For Whom Are the Stars? Honolulu: University of Hawai'i Press and Friends of the Library of Hawai'i, 1976.

On January 24, 1895, while being held prisoner in 'Iolani Palace, Queen Lili'uokalani was forced to sign a statement of abdication in favor of the Republic of Hawai'i. Once free, the Queen renounced the abdication, contending that she had signed the statement because it had been falsely represented to her that the royalists who had been arrested would be immediately released. Moreover, under the 1887 constitution, the Queen had no authority to abdicate.¹⁸

In 1898, after President McKinley failed to rally the support of two-thirds of the U.S. Senate, necessary to ratify a treaty of annexation, he submitted the Newlands Resolution, a joint resolution which received a majority vote of both the U.S. Senate and House of Representatives. While Congress has the power to admit states into the union by joint resolution, it is not specified that Congress has the power to acquire territory through any means other than a treaty, which requires the support of two-thirds of the U.S. Senate. There is continuing debate over the legality of the annexation of Hawai'i through a joint resolution.¹⁹

The annexation of Hawai'i was a transaction between the government of the Republic of Hawai'i and the U.S. government. It was accomplished without the consent of or compensation to the indigenous Hawaiian people or their sovereign government who were thereby denied the mechanism for expression of their inherent sovereignty through self-government and self-determination. Through annexation the U.S. also confiscated the lands and ocean resources of the Hawaiian people. In the history of the expansion of the United States other foreign governments had surrendered to the U.S. government their claims to control and colonize territories in North America. The midwest territories included in the Louisiana Purchase were sold by France to the United States; Alaska was sold to the United States by the Russian czar; the Mexican Government ceded the southwest territories to the U.S. under the Treaty of Guadalupe-Hidalgo after losing the Mexican-America war. In these cases, foreign governments relinquished any claim that they asserted over the respective territories to the U.S. government. The Native American peoples, themselves were not involved in these transactions. They maintained and continued to exercise sovereignty over their tribal lands. Unlike Hawaiians,

¹⁸ Lili'uokalani, 1898.

¹⁹ Littler, Robert M.C. The Governance of Hawaii: A Study in Territorial Administration. Stanford: Stanford University Press, 1929. In 1845, Congress annexed Texas into the United States as a state through a joint resolution, when proponents failed to get support from two-thirds of the U.S. Senate. However, in that case a plebiscite was held and Texas was annexed as a state rather than as a territory.

however, separate treaties were later signed with most of the affected Native American, Eskimo, and Aleut tribes, bands, and nations. Hawaiian claims have been placed before the U.S. Congress but remain unsettled.²⁰

Through the Newlands Resolution and the 1900 Organic Act, the United States Congress received 1.8 million acres of lands which formerly belonged to the Crown and Government of the Hawaiian Kingdom and exempted the lands from then existing public land laws of the United States by mandating that the revenue and proceeds from these lands be "used solely for the benefit of the inhabitants of the Hawaiian Islands for education and other public purposes," thereby establishing a special trust obligation upon the United States to the inhabitants of Hawai'i. ²¹

From 1900 through 1959 Hawai'i was governed as a Territory of the United States. The official U.S. policy was to Americanize the multi-ethnic society of the Hawaiian Islands, beginning with the children through the American public school system. Hawaiian and other languages except English were banned as official languages or as a medium of instruction. An elite group of Americans who were the owners and managers of what was called the Big Five Factors had monopoly control over every facet of Hawai'i's economy and social system - the media, utilities, banking, transportation, sugar and pineapple plantations, hotels, wholesale and retail trade. The U.S. controlled immigration and sugar plantations imported foreign labor from Japan (through 1907) the Philippines, Puerto Rico, and Korea. Transmigration from the United States was encouraged. The U.S. increased its military presence in Hawai'i eventually locating there the Commander-In-Chief Pacific, the central command and control center for all U.S. armed forces in the Pacific and Asia. ²²

²⁰ American Indian Resources Institute. Indian Tribes As Sovereign Governments (Oakland: American Indian Resources Institute, 1987).

²¹ U.S. Congress. 56th Congress, 1st Session 1899 - 1900. "Congressional Debates on Hawaii Organic Act, Together With Debates and Congressional Action on Other Matters Concerning the Hawaiian Islands." Washington, (photostat reproduction from the Congressional Record, v. 33, pts. 1 - 8), 1899 - 1900.

²² Fuchs, Lawrence, Hawaii Pono: A Social History. San Diego: Harcourt, Brace & World, Inc., 1961; Kent, Noel. Hawaii Islands Under the Influence. New York: Monthly Review Press, 1983; Lind, Andrew. An Island Community: Ecological Succession in Hawaii. Chicago: The University of Chicago, 1938; reprint New York: Greenwood Press, 1968..

In 1921, Congress enacted the Hawaiian Homes Commission Act which designated 200,000 acres of the ceded public lands for exclusive homesteading by Native Hawaiians, thereby affirming the trust obligation upon the United States to the Native Hawaiians, as expressed by then Secretary of Interior Franklin K. Lane who was cited in the Committee Report of the United States House of Representatives Committee on Territories as stating, "One thing that impressed me . . . was the fact that the natives of the islands who are our wards, I should say, and for whom in a sense we are trustees, are falling off rapidly in numbers and many of them are in poverty."²³

In 1938 the United States Congress again acknowledged the unique status of the Hawaiian people by including in the Kalapana Extension Act of June 20, 1938 (52 Stat. 781 et seq.), a provision to lease lands within the extension to Native Hawaiians and to permit fishing in the area "only by native Hawaiian residents of said area or of adjacent villages and by visitors under their guidance."²⁴

A plebiscite on statehood was held in 1940 by the territorial government. Any American citizen living in Hawai'i for one year was eligible to vote. The question posed was, "Do you favor statehood for Hawai'i?" 67 % of the voters answered yes. Almost one-third of the voters opposed statehood. In 10 of the 162 precincts the majority voted "No". Slightly more than 20 % of those eligible did not vote.²⁵

In 1946, the United Nations General Assembly, as required under Chapter XI. Article 73 of the UN Charter, "Declaration Regarding Non-Self-Governing Territories," included Hawai'i on the list of its non-self-governing territories together with Alaska, American Samoa, Guam, Panama Canal Zone, Puerto Rico, and the Virgin Islands. By this action the U.S. was required to assist the territory in achieving self-government by opting for one of the following three alternatives:

- (a) Complete independence from any other state.
- (b) Free Association with another state.
- (c) Complete integration into another state.²⁶

²³ U.S. Congress. House. Committee on the Territories. Report No. 839. 66th Congress 2nd Session. Seen in Hawai'i State Archives, Delegate Kalaniana'ole File on Rehabilitation.

²⁴ Act of June 20, 1938 (52 Stat. 781 et seq.)

²⁵ Roger J. Bell, Last Among Equals: Hawaiian Statehood and American Politics, Honolulu: University of Hawai'i Press, 1984.

²⁶ Rob Williams, esq, Working Paper for "Status and Entitlements of Hawaiian Natives" Study funded by the Ford Foundation to the Native Hawaiian Advisory Council, 1992 - 1993;

In 1959, in accordance with the Admission Act of March 18, 1959, a second statehood plebiscite was held. The plebiscite provided that the qualified voters of Hawai'i adopt or reject three propositions which had to be adopted for Hawai'i to become a state: (a) "Shall Hawai'i be admitted into the Union as a state?" (b) acceptance of the boundaries of the State, and (c) acceptance of all the provisions contained in the Statehood Bill. Any American citizen who had resided in Hawai'i for one year was eligible to vote. The result of the plebiscite was, 132,938 voters in favor of statehood and 7,854 opposed.²⁷

The 1959 plebiscite cannot be considered an adequate exercise in self-determination for the habitual residents of Hawai'i. For a plebiscite to be considered free and fair it must meet the criteria of (1) neutrality of the plebiscite area (2) freedom from foreign occupation; and (3) control of the administration of the plebiscite by a neutral authority. Those who participated in the plebiscite could not be considered the correct "self", reflecting those citizens of Hawai'i or descendants of them who had been denied the continued exercise of their independent nation by the U.S. invasion in 1893. The U.S. government defined the qualifications for voting in such a way that it resulted in the exercise of an altered "self"-determination. By 1959, Hawai'i had been Americanized by years of transmigration from the United States of America and socialization through control over the media, the economy, and the educational, social, legal, and political system of Hawai'i. Following four generations of U.S. control over the society, the United States permitted the "qualified" voters in Hawai'i to become equal American citizens. Qualified voters were American citizens who were residents of Hawai'i for at least 1 year. Only U.S. declared citizens could vote. Those who resisted the American domination and insisted on their Hawaiian citizenship could not vote. The question: "Shall Hawai'i immediately be admitted into the Union as a State? was unfair and fell short as a measure of self-determination. It failed to afford the people the range of choices from integration within the U.S.A. or to reemerge as an independent nation. The question, "Should Hawai'i be a free and independent nation?" should have been but was never asked. Additional factors which make the 1959 plebiscite fraudulent from the standpoint of being an exercise of self-determination were that the United States stated the question to be

Hawaiian Sovereignty Advisory Council Report To The Legislature, January 1992. presentation of Russell Barsh, esq. to the Hawaiian Sovereignty Advisory Commission, November 5 - 6, 1993, Hawai'i State Tower.

²⁷ Ibid.

asked; supervised the plebiscite process; and counted the votes. The United States military maintained a strong presence in the territory when the plebiscite was conducted. Many in the U.S. military also participated in the plebiscite. The United States failed to carry out or to see that others carried out an educational program on the right to independence. In fact, the United States caused fear within the society by promoting a communist scare and a nuclear arms race scare which later proved, on both fronts, to have been fabrications of the government of the day. The United States did not inform the people of their right to self-determination or of the responsibility of the United States to the people regarding decolonization as called for under Chapter XI. Article 73 of the U.N. Charter.

In 1959, after the Hawai'i statehood plebiscite, the U.N. removed Hawai'i from the U.N. list of Non-Self-Governing Territories." As evidence, the U.S. submitted a memorandum to the U.N. Secretary General, the text of the Congressional Act admitting Hawai'i into the U.S. as a state, a Presidential Proclamation, and the text of Hawai'i's Constitution. In response, the U.N. General Assembly, through Resolution 1469 (XIV) expressed the opinion that Hawai'i had effectively exercised the right of self-determination and had freely chosen its status as a state of the Union. This relieved the U.S. of further responsibility to report to the U.N.²⁸

In addition to the issue of pursuing the decolonization of Hawai'i as a whole, there is the immediate and pressing issue of redress and self-governance for the indigenous Hawaiian people within Hawai'i. The rights and entitlement of indigenous peoples to self-governance, to control over certain resources, to determine the education of their children, the communications across international border for trade and exchange of cultural, intellectual, and spiritual development, and a multitude of other areas of life have greatly progressed in the international arena. The United Nations Working Group on Indigenous Populations, the International Labor Organization, the International Indigenist Institute of the Organization of American States, the World Council of Indigenous Peoples, the United Nations General Assembly and other governmental and non-governmental organizations have all taken an active role in clarifying the inherent rights of indigenous peoples of the world. The result of all this work is that there is now an evolving minimum standard of rights of indigenous peoples. The Native Hawaiians are calling to invoke such developing standards to their circumstances, which standards would go beyond the nation-within-nation status currently accorded to the Native American tribes and nations by the government of the United

²⁸ Ibid.

States of America. Those standards even exceed the provisions now available to Native Hawaiians as set forth in the Hawai'i State Constitutional statutes.

Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration of the 200,000 acres of Hawaiian Home Lands to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining exclusive power to enforce the trust, including the power to approve land exchanges, and legislative amendments affecting the rights of beneficiaries under the act.

Under the Act entitled 'An Act to provide for the admission of the State of Hawai'i into the Union', approved March 18, 1959 (73 Stat. 4), the United States transferred responsibility for administration over portions of the ceded public lands trust not retained by the United States (approximately 1,200,000 acres) to the State of Hawai'i but reaffirmed the trust relationship which existed between the United States and the Hawaiian people by retaining the legal responsibility of the State for the betterment of the conditions of Native Hawaiians under section 5(f) of the Act.

The authority of the Congress under the United States Constitution to legislate in matters affecting the aboriginal or indigenous peoples of the United States includes the authority to legislate in matters affecting the native peoples of Alaska and Hawai'i.

In furtherance of the trust responsibility for the betterment of the conditions of Native Hawaiians the United States has established a program for the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of the Hawaiian people.

This historical and unique legal relationship has been consistently recognized and affirmed by the Congress through the enactment of Federal laws which extend to American Indian, Alaska Native, Eskimo, and Aleut communities including the Native American Programs Act of 1974; American Indian Religious Freedom Act; the National Museum of the American Indian Act; and the Native American Graves Protection and Repatriation Act.

The U.S. Congress has also recognized and reaffirmed the trust obligation to the Hawaiian people through legislation which authorizes the provision of services to Native Hawaiians.²⁹

In November 1993, the U.S. Congress acted to permanently stop bombing and all ordnance delivery training on the sacred Hawaiian island of Kaho'olawe and to return the island to the people of Hawai'i. During the 1993 session, the Hawai'i State Legislature had passed a law to hold Kaho'olawe in trust as part of the ceded public lands trust and to turn the island over to the sovereign Hawaiian entity when it is re-established and recognized by the U.S. and Hawai'i State governments.

In November 1993, the 103d Congress in its first session passed Senate Joint Resolution 19 which was signed by President Bill Clinton. The Joint Resolution offered a formal and official apology to the Hawaiians people for the U.S. role in the overthrow of the Hawaiian monarchy on January 17, 1893. In part it read:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled . . . The Congress:

- apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawai'i on January 17, 1893 with the participation of agents and citizens of the United States and the deprivation of the rights of Native Hawaiians to self-determination.
- expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawai'i, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people.
- urges the President of the United States to also acknowledge the ramifications of the overthrow of the Kingdom of Hawai'i and to support reconciliation efforts between the United States and the Native Hawaiian people.³⁰

²⁹ These include the Older Americans Act, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Veterans' Benefits and Services Act of 1988, the Rehabilitation Act of 1973, as amended in 1988, the Native Hawaiian Health Care Act of 1988, the Health Professions Reauthorization Act of 1988, the Nursing Shortage Reduction and Education Extension Act of 1988, the Handicapped Programs Technical Amendments Act of 1988, the Indian Health Care Amendments of 1988, and the Disadvantaged Minority Health Improvement Act of 1990.

³⁰ 103d Congress, 1st Session, Senate Joint Resolution 19. Introduced into the Senate of the United States by Senator Daniel Akaka for himself and Senator Daniel Inouye on January 21, 1993.

Summary Recommendation:

THEREFORE IT IS RECOMMENDED THAT THE LEGISLATURE OF THE STATE OF HAWAII FINDS:

That the indigenous people of Hawai'i have been denied their rights to self-determination and self-government.

That the State of Hawai'i must take the step and support the sovereignty of the indigenous Hawaiian people, without imposing a particular form or body of sovereign government. Through the United States, native governments and states govern side-by-side. But too often these native governments were imposed upon the states by the federal government, causing years of mistrust and separation.

That the State of Hawai'i cannot confer sovereignty, but it can support the process of self-determination. Further, that it is timely to take this step in light of the joint resolution of Congress, P.L. 103-150, acknowledging and apologizing for the illegal overthrow of the Kingdom of Hawai'i, and urging reconciliation between the United States of America and the indigenous Hawaiian people.

IT IS FURTHER RECOMMENDED THAT THE LEGISLATURE OF THE STATE OF HAWAII ACKNOWLEDGES AND RECOGNIZES THE UNIQUE STATUS THE INDIGENOUS HAWAIIAN PEOPLE BEAR TO THE STATE OF HAWAII AND TO THE UNITED STATES AND TO FACILITATE THE EFFORTS OF INDIGENOUS HAWAIIANS TO BE GOVERNED BY AN INDIGENOUS SOVEREIGN NATION OF THEIR OWN CHOOSING.

In the spirit of self-determination the legislature should support the efforts of the indigenous Hawaiian people to:

- a. Create an independent Sovereignty Elections Board;
- b. Hold a plebiscite to determine the will of the indigenous Hawaiian people to restore a government of their own choosing; and
- c. Should the plebiscite be approved by a majority of qualified voters, provide for a fair, impartial and valid process to formalize the form, structure and status of a Hawaiian nation.

VISIONING BEYOND THE LEGISLATIVE MANDATE

Hawaiian sovereignty. Those words are on the lips of people from a cross section of our community. They may be whispered or shouted, the contents of prayers, poetry and prophecies, themes in songs and speeches, lectures and sermons. The call for Hawaiian sovereignty is unavoidable in Hawai'i today.

The call for Hawaiian sovereignty runs deep. It is a call that stretches into a time of long ago, into a people and a culture steeped in spirituality created and recreated out of their circumstances and physical environment. It is a call for respect of the integrity of a people first upon this homeland who set the social foundation upon which people of other ethnicities came. It is a call for the regard for the full realization of the social, economic and cultural rights of the native people of Hawai'i with respect to their social and cultural identity, their customs and traditions and their institutions. It is a call for attributing to these first people the seat of their spirituality, the foundation of their sustenance, the wellspring of their identity - the 'aina which they have traditionally used prior to the interruption of their independent social and political development by the invasion of Hawai'i by United States military forces in January 1893.

The call for Hawaiian sovereignty runs wide. It is a call with breadth that encompasses the respect for people of all ancestral backgrounds, for a wide array of ethnic diversity and spiritual expressions. It is a call for respect of the political development of a people who share a commonalty of cultural and familial continuity and allegiance to Hawai'i. Within that call is the demand for self-determination, the respect of the people of Hawai'i to their choice of their political, cultural, economic, social and civil arrangements among themselves and their relationship with others.

The call for Hawaiian sovereignty is a natural consequence of the maturity of Hawai'i's society. It is a process a hundred years old, of seven generations since the overthrow of Hawai'i's constitutional monarchy, a process which has encompassed many changes in Hawai'i, coming to almost full circle of consciousness of nationhood.

So vibrant is the call for Hawaiian sovereignty and so well founded is the historical, legal and moral case that the pinnacles of governmental institutions ranging from the United States Congress and its President to the Hawai'i State Legislature and its Governor, have found the issue irrepressible. The United States Congress passed and on November 25, 1993, President Bill Clinton signed Senate Joint Resolution 19, a formal apology by the United States for the overthrow of the Kingdom of Hawai'i. The State of Hawai'i has

cited on several occasions the same sordid history of illegality, of theft, of dishonesty and disgrace in the actions taken to deprive a people of their independence nationhood.

The mandate of an advisory body can be interpreted in various ways. The mandate may be interpreted in a very narrow way, addressing only the specific query posed by the body creating it. This may be especially the case for a technical issue. But what of the mandate of an advisory body which is to address social, historical, ethical, legal, cultural and political issues? By definition, it seems that the mandate must be broad.

The charge of the Hawaiian Sovereignty Advisory Commission, created out of the State of Hawai'i Legislature, taking a restrictive reading of the legislation creating this commission, is limited to counseling the legislature on a process of:

- (1) Holding a referendum to determine the will of the native Hawaiian people to call a democratically convened convention for the purpose of achieving consensus on an organic document that will propose the means for native Hawaiians to operate under a government of their own choosing;
- (2) Providing for a mechanism to democratically convene a Hawaiian convention so that native Hawaiians may openly and freely discuss and decide the form and structure of that government; and
- (3) Describing the process for the conduct of fair, impartial, and valid elections including a referendum election.

Section 2, Act 359, 1993.

The commissioners, however, unable to divorce from their task, an appreciation of the historical, ethical, cultural and political circumstance surrounding the issue, have considered the spirit of the legislation and of the times and thus have a much more elaborate interpretation of their responsibilities available to them.

Truly, each commissioner must determine their individual course in determining the scope of their responsibility. The present report, however, will reflect instances of the more liberal interpretation of responsibility arising from this legislation. The very fact that the commission has created the Visioning Beyond the Legislative Mandate Committee indicates the seriousness and the breadth with which the commission has assumed its responsibility.

The report herewith submitted to the legislature touches only upon the very surface of the quest for Hawaiian sovereignty. Your commission makes no pretense that the report is complete or that it addresses all aspects of the legitimate aspirations of the Hawaiian people. Nor does your commission

make any pretense of judging the legitimacy or illegitimacy of the variety of aspirations for Hawaiian sovereignty. We do acknowledge that each person's hopes must be treated with dignity and fairness, recognizing that it comes from the reality of his or her experience.

A serious and valid criticism of any process established by a government which exercises control over a people demanding self-determination, sovereignty, liberation, emancipation, etc., is that the process itself is automatically suspect. Simply bemoaning the situation, however, is no sufficient remedy. While recognizing the inherently suspect conditions under which the commission is created under the authority of the State of Hawai'i and mindful of the possible limitations to its scope of advise it may be permitted to submit to the State legislature, the commission has taken an intentionally affirmative step in the search for pono within the spirit of self-determination.

The Hawaiian Sovereignty Advisory Commission has thus created the Visioning Beyond the Legislative Mandate Committee. This committee is to take its inquiry and deliberations beyond any limiting boundaries which may be suggested by legislation creating it, to take an expansive approach to Hawaiian sovereignty in the fullness of the 'spirit of self-determination.' It is to explore the full panorama of human rights expressed by the calls for Hawaiian sovereignty, looking to international law and on-going international reforms considered by intergovernmental as well as non-governmental organizations.

We have set upon this work by first, describing the historical background which gives rise to the claim of Hawaiian sovereignty. Second, we will consider the progress being made in international arenas which has been too often treated in Hawai'i as being inapplicable to our case. Such arenas include the International Labor Organization, the United Nations as well as indigenous non-governmental international organizations. Third, we will bring the focus home, considering Hawai'i's history and the applicability of the development in the international arena to the people of Hawai'i.

Hawai'i's Indigenous People And The People of Hawai'i

We begin our inquiry at the outset by having a clear understanding of the call for Hawaiian sovereignty. It is a call which goes both deep and wide. It is a call for the special human rights of indigenous peoples who continue to reside in their traditional homeland. We identify the indigenous people of Hawai'i, the native Hawaiians, as those who had continuous residence in these islands prior to the arrival of James Cook. Hawaiian sovereignty is a call for the broader human rights of self-determination reconfirmed in international law in the last half century. That broader interest includes

those non-indigenous peoples who have become part of the national life of Hawai'i by maintaining a cultural, national and familial relation with the Hawaiian society, predating the United States invasion or within the last 100 years.

These two groups' interests are not necessarily in conflict with one another and both can be accommodated in the call for Hawaiian sovereignty. Let's follow these two tracts of human rights as they apply to Hawai'i.

I. Indigenous People's Rights and the Program to Protect Them

The right of the indigenous people in their own homeland has been gaining greater recognition throughout the world. Indigenous peoples organizations have flourished in the international sector and in 1985, the World Council of Indigenous Peoples adopted the Declaration of Rights of Indigenous Peoples, the first time such a declaration by indigenous peoples had been adopted. In 1987, Hawai'i hosted the formation of the Pacific Asia Council of Indigenous Peoples, the first organization to bring into international participation indigenous peoples of Asia, the heartland of the world's indigenous peoples. International governmental organization have also attended to the indigenous peoples question, beginning with the International Labor Organization. Now, even the General Assembly of the United Nations has become involved.

A. ILO Conventions 107 and 169

In 1957, the International Labor Organization adopted its Convention 107 'Concerning the Protection and Integration of Indigenous and other Tribal and Semi-Tribal Populations in Independent Countries.' In doing so, the ILO became the first world governmental organization to specifically address the concern of indigenous peoples. When it did so, it was done without participation of indigenous peoples, it followed the prevailing social theory that societies all develop in a stepped pattern of civilization, that indigenous peoples were behind the rest of society in that development and the ILO applied an integration approach to the protection of indigenous peoples in that development process.

In the late 1960's and early 1970's, indigenous peoples, especially from North America, carried their national campaigns into the international arena, complaining of the treatment they were receiving from governments which now asserted jurisdiction over their territory. Two major international indigenous organizations became prominent at that time, the World Council of Indigenous Peoples with its main office in Canada through the National Indian Brotherhood (now the Assembly of First Nations) and the International Indian Treaty Council with its office in the United States of America through the American Indian Movement.

The WCIP in its General Assembly in the late 1970's condemned the ILO Convention for following a policy of integration and which failed to consult or include indigenous representatives in its discussion and adoption of the convention. The WCIP called for a new approach of indigenous empowerment rather than integration, ingrained in a revised convention to deal with indigenous peoples.

The ILO responded by calling, in 1986, an expert committee to review and recommend revisions to the convention. It invited a designee from the WCIP and another from Survival International to join its tripartite committee of government, worker and employer representatives. Based upon that committee's review, the ILO held a two year process in discussing and adopting a revised convention. The process included indigenous people in various government and union delegations as well as many indigenous peoples' organizations.

The ILO, in 1989, adopted Convention 169 'concerning indigenous and tribal peoples in independent countries.' The change in name reflects many of the important improvements over the prior convention. This new convention shifted the emphasis from integration to empowerment of indigenous peoples. It placed greater emphasis on the collective rights of indigenous peoples as opposed to the individual rights. It replaced the term 'populations' with the term 'peoples' thus having great implications in international law as regards the right to self-determination. Land rights were greatly expanded under the new convention. Employment conditions, vocational training, social security and health programs, education and communication all were greatly enhanced in this new convention. Migration across borders, a new subject, was added.

Sufficient numbers of governments have since ratified the convention making it today part of the body of international law and the only active international instrument specifically addressing the rights of indigenous peoples. Most, if not all international indigenous organizations, have supported the new convention over the old.

B. United Nations and Indigenous Peoples

1. United Nations Working Group on Indigenous Populations

The United Nations consideration of the problems facing indigenous peoples began in earnest with a 'study of the problem of discrimination against indigenous populations' conducted from 1971 to 1984. Oftentimes called the Martinez-Cobo report after the special rapporteur charged to carry out the study, it is a comprehensive study of five volumes reviewing the conditions of indigenous peoples and making recommendations.

Even before its completion, and as the early volumes were completed, it influenced the United Nations system in 1982 into forming the Working Group on Indigenous Populations, consisting of five 'experts,' selected by governments of the five United Nations regional caucuses. The working groups charge was to review developments pertaining to the promotion and protection of human rights and fundamental freedoms of indigenous populations, including information particularly from indigenous peoples. It was also charged with developing standards concerning rights of indigenous populations.

That working group has had yearly meetings in Geneva and is among the largest United Nations forums in the field of human rights. Although not established as a chamber of complaints against governments, its sessions have permitted direct criticism of current practices. It meets annually in late July of each year. A voluntary fund for Indigenous Populations has been established in which governments make contributions to assist indigenous peoples representatives to travel and participate at the working group sessions. The fund is small, generally less than \$60,000 (U.S.) and only a small number of representatives are able to use it.

A draft declaration of rights of indigenous peoples have emerged from this working group and is now making its way to the United Nations General Assembly. If adopted, it will become not binding international law upon any country, but a guideline for governmental conduct. The working group will continue to meet annually, reviewing developments of indigenous peoples.

2. Special Studies:

i. "Treaties, agreements and other constructive arrangements"

In 1988, the Economic and Social Council authorized a study under the guidance of Special Rapporteur Miguel Alfonso Martinex of treaties, agreements and other constructive arrangements between states and indigenous populations. The Special Rapporteur is also a member of the United Nations Working Group and reports to the group on a yearly basis. Mr. Alfonso Martinez has invited indigenous groups to forward information of such arrangements for his study.

There have been some questions over the appropriateness of including within his study treaties entered into between independent nations recognized in the international arena but which have since been colonized by one of the treaty parties. To label such international treaties as between states and indigenous populations would be a derogation of the status of such treaties and a denial of the right to decolonization already established in international law. Hawai'i's situation raises a prime example of this concern.

ii. "Cultural and intellectual property of indigenous peoples"

The United Nations in 1991 appointed Special Rapporteur Erica-Irene Daes to study the cultural and intellectual property of indigenous peoples. This study includes questions dealing with the integrity of indigenous knowledge, whether and to what extent their cultural heritage are to be considered public domain, the appropriateness of patenting indigenous plant varieties and genetic research, the appropriateness of projects to carry out a world-wide sampling of indigenous peoples tissue and hair, the return of indigenous artifacts and skeletal and other human remains, etc.

This is an on-going study in which the Special Rapporteur makes a yearly report to the working group.

3. International Year for the World's Indigenous People.

The United Nations General Assembly, in 1990, proclaimed the year 1993 as the International Year for the World's Indigenous People, under the theme, 'Indigenous People: A New Partnership.' the year was said to encourage the development of new relationships between States and indigenous peoples and between the international community and indigenous peoples. It was to be a turning point in the struggle by indigenous peoples to gain recognition of their rights in areas such as self-rule, land, natural resources, language, education, health, housing, employment, intellectual and cultural property and the status of treaties concluded with States. The year opened on Human Rights Day, December 10, 1992, with indigenous representatives addressing the United Nations General Assembly in a historic, first time ever, occasion. Twenty indigenous representatives were selected from various parts of the world; Poka Laenui spoke on behalf of the Pacific Asia Council of Indigenous Peoples.

Midway through the year, at the yearly session of the United Nations Working Group on Indigenous Populations, it seemed the year was destined to failure. There was very little money to carry out serious programs to change the conditions of indigenous peoples. There was lack of effective coordination in managing the year. It seems there was no seriousness in developing a new partnership, but merely a tactic to overcome the outrage of indigenous peoples from the Americas for declaring 1992 as the year of the Encounter of Two Worlds - a celebration for Christopher Columbus.

An international decade for the world's indigenous peoples has recently been declared by the General Assembly of the United Nations, giving much more time to make serious changes to the plight of indigenous peoples around the world.

C. Other Areas of Activities

There is a growing awareness of the plight of indigenous peoples around the world as well as the treasures of knowledge indigenous peoples possess. International conferences and activities are being held regularly to define or develop indigenous rights. Museums, anthropological associations, numerous environmental groups, educational societies, world health and development agencies and many others are trying to include in one or another aspect of their work, indigenous peoples.

II. The Broader Rights of the People of Hawai'i and the Program to Protect Them.

The second interest to be considered rests with the indigenous and non-indigenous peoples who have come to make Hawai'i the resting place of their spirit 'permanent' home, the seat of their identity, the location of their loyalty, the society in which they have placed their political and cultural devotion. These are the people for whom the political right to self-determination have been denied for over a hundred years.

As a result of the denial of this right of self-determination, these people have not been in control of their economic conditions, their population development, their international relations, their physical environment, the development of culture and all of the other attributes of a free and independent nation.

In a discussion of the rights of a people, self-determination is the collective right of such a people to determine the course of their lives and their destinies. In Western political thought, the concept that the sole source of legitimate political power is the will or consent of the people arose in the 14th century by Marcilius of Padua. It became the driving force of nations struggling for self-determination, finding its way to the French and American revolutions.

A. Defining The "Self"

But how does one define the 'self?' the 'self' or the people who formed nation-states, were formed around their chief provinces, for example, France from the Ile de France and Poland from Polonia. (Cobban, The nation State and national Self-Determination [1969]). In some cases, common cultural and political bonds were absent except for a common desire to stay together, for example, the Swiss Confederation and the United States of America. Indeed, the American revolution affirmed that a group of people need not necessarily have a common heritage, language, ethnic background, or religion to assert their right as a people entitled to self-determination. Loyalty to a territory alone could be a sufficient bond. Indeed, the demand of

a historic community to possess its own nation has been considered sufficient to invoke the right of self-determination. (Paine, Rights of Man [1969]). When a group of people share a common sentiment and an identification of common aims, a nation is born.

The "nation" or "self" is entitled to "determination" - the right to determine the course of their lives and to govern their destiny.

Determination can best be seen as a long line upon which a people chose to place themselves. On one end of that line is integration into another nation. On the other end is emergence as a sovereign independent country.

Given this broad and very quick treatment of the principle of self-determination, let us turn now to the development of this right in the more recent past, the last fifty years.

B. United States Under International Obligations: The United Nations.

In 1945, under the charter of the United Nations at Article 73, the United States was charged with an obligation to transmit to the United Nations information on territories held by it under a colonial type arrangement ('Non-Self-Governing Territories'). Hawai'i was included as such a territory, along with Alaska, American Samoa, Guam, Panama Canal Zone, Puerto Rico and the Virgin Isles (General Assembly Resolution 66 of 1946). When these territories reached a full measure of self-government, the reporting requirement was fully met and the administering power discharged from further international obligations. Self-government was reached when a territory:

- (a) Emerged as a sovereign independent State;
- (b) Free association with an independent State; or
- (c) Integration with an independent State.

(Principles Which Should Guide Members in Determining Whether or not an Obligation Exists to Transmit the Information, Called for in Article 73(e) of the Charter of the United Nations Annex to General Assembly Resolution 1541(XV) of 15 December 1960).

In 1953, the United Nations General Assembly, based upon the United States report that Puerto Rico had chosen a commonwealth status with the United States, concluded that the United States had no further obligation to Puerto Rico as a non-self governing territory to report yearly to the United Nations.

After the Hawai'i Statehood vote, the United States reported to the United Nations that Hawai'i's constitutional status had changed and that it was now a State of the United States. The communique to the United Nations related that a special election was held on June 27, 1959 in which the

proposition, 'Shall Hawai'i immediately be admitted into the Union as a State?' was adopted. The communique did not describe the events leading up to the United States takeover and control of Hawai'i nor did it discuss the fact that only United States citizens were allowed participation in that referendum. Upon this communique, the United Nations General Assembly by Resolution 1469 (XIV) expressed an opinion that Hawai'i effectively exercised the right to self-determination and had freely chosen its status as a State of the Union. The United States was thus relieved of further responsibility to report to the United Nations.

As the 1960's began, the international movement toward decolonization had a major boost. The United Nations General Assembly passed by an overwhelming majority, without a single dissenting vote, the Declaration on the Granting of Independence to Colonial Countries and Peoples, (General Assembly Resolution of 1514(XV) of 14 December 1960). That resolution declared:

Considering the important role of the United Nations in assisting the movement for independence in Trust and Non-Self-Governing Territories,

Recognizing that the peoples of the world ardently desire the end of colonialism in all its manifestations,

Convinced that the continued existence of colonialism prevents the development of international economic co-operation, impedes the social, cultural and economic development of dependent peoples and militates against the United Nations ideal of universal peace, . . .

Believing that the process of liberation is irresistible and irreversible and that, in order to avoid serious crisis, an end must be put to colonialism and all practices of segregation and discrimination associated therewith, . . .

Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory,

Solemnly proclaims the necessity of bringing to a speedy and unconditional end to colonialism in all its forms and manifestations;

And to this end,

Declares that:

1. The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.

2. All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
3. Inadequacy of political, economic, social or educational preparedness should never serve as a pretext for delaying independence . . .
5. Immediate steps shall be taken, in Trust and Non-Self-Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the people of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinction as to race, creed or color, in order to enable them to enjoy complete independence and freedom.

The United Nations established a Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples, more frequently referred to as the Special Committee of 24, to oversee the progress by metropolitan countries in the decolonization of their territories. The Special Committee, to acquaint itself with the situation in individual territories, sends visiting missions to them. That committee has also observed or supervised elections and plebiscites held in Trust and non-self-governing territories concerning proposed changes in their constitutional status.

In the 1980's, that special committee received repeated reports that the United States committed a fraud against the United Nations by reporting that the people of Puerto Rico had freely chosen association with the United States while in reality, tens of thousands who supported independence had been victims of systematic discrimination and persecution by the United States. The committee repeatedly reaffirmed 'the inalienable right of the people of Puerto Rico to self-determination and independence,' expressing its hope that 'the people of Puerto Rico may exercise without hindrance its right to self-determination, with the express recognition of the people's sovereignty and full political equality in conformance with its prior resolution of decolonization.'

The initial response by the United States to the reopening by the special committee of the questions of Puerto Rico's exercise of self-determination was to outright deny that the committee had any competence in the matter. The United States argument that Puerto Rico had already been lifted from the list of territories to be decolonized, however, did not convince the special committee. On a yearly basis, the committee insisted that the matter was appropriately before them. The United States finally relented and has revisited the question of Puerto Rico's exercise of self-determination.

In its recent report of 28 July 1992, the Special Committee:

1. Reaffirms the inalienable right of the people of Puerto Rico to self-determination and independence, in conformity with the General Assembly Resolution 1514 (XV) of 14 December 1960, and the application of the fundamental principles of that resolution with respect to Puerto Rico;
2. Trusts that the United States Congress will adopt as soon as possible the legal frame work to enable the people of Puerto Rico to exercise their right to self-determination, through popular consultations, in accordance with the principles and practice of the United Nations; . . .
4. Decides to keep the question of Puerto Rico under continuing review.

Puerto Rico has been under continuing review since the mid-1980's.

C. Growing International Awareness in Hawai'i.

The promotion of decolonization by the United Nations, especially in the more recent period, has not been lost to the people of Hawai'i. Other events, closer to home, impacting upon Hawaiian awareness of international rights are the emergence of independent Pacific nations.

Beginning with Western Samoa in 1962, the Pacific Ocean saw the explosion of independence, marking the Pacific map with new nations such as Fiji, Nauru, Tuvalu, Kiribati, Papua New Guinea, Cook Islands, Niue and Vanuatu. After a ten year lull since the independence of Vanuatu, we have seen the emergence of American territories of Micronesia into full nationhood. In September 1991, the Republic of the Marshall Islands and the Federated States of Micronesia became members of the United Nations. The struggle of the Commonwealth of the Northern Marianas for greater clarity in its relations to its former colonial ruler, the attempts by the Republic of Belau to achieve independence without United States military presence, and the developing demands in Guam to application of international standards of self-determination, leading to the right to select emergence as a sovereign independent nation are all struggles on-going in the Pacific.

Before the demise of the Soviet Union, the emergence of the nations of Latvia, Estonia and Lithuania, previously fully integrated into the Soviet Union, but within a few months, welcomed into membership of the United Nations, are experiences which also add to the vitality of the principle of decolonization and are being noted here in Hawai'i.

D. Relevant Colonial History Regarding Hawai'i.

i. The Changing Face of Hawai'i, 1900-1959.

Following the overthrow and the eventual annexation by the United States, Hawai'i underwent traumatic changes affecting every aspect of life. Sanford Dole, former President of the Republic of Hawai'i and before that, President of the Provisional Government, was appointed territorial governor. Monopolies in shipping, finance and communications developed. The Big Five, a coalition of five business entities, all finding their roots in the missionary party which lead the plot to overthrow the Hawaiian nation, controlled every aspect of business, media and politics in Hawai'i. Beginning with sugar, they took steps to control transportation, hotels, utilities, banks, insurance agencies, and many small wholesale and retail businesses. When they teamed up with McKinley's Republican Party and the United States Navy, there was virtually nothing left unexploited. All during this period, the myth of the superiority of the Anglo-Saxon race was promoted.

A massive brainwashing program was begun to convince Hawaiians that the United States was the legitimate ruler and that the Hawaiians were no longer Hawaiians but Americans.

The term Hawaiian was redefined as a racial rather than a national term. Large numbers of citizens of Hawai'i were identified no longer as Hawaiians but as Chinese, Korean, English, Samoan, Filipino, etc. The divide and conquer tactic was employed even among the Hawaiian race, when Congress defined 'native Hawaiians' (at least 50% of the aboriginal blood), entitled to special land privileges while depriving others of lesser 'blood.'

Children were forced to attend American schools and there taught to pledge their allegiance to the United States, trained in the foreign laws, told to adopt foreign morality, to speak no language but the foreign (English) and adopt the foreign (American) lifestyle. Official government proceedings were to be conducted in English and not the Hawaiian language. In the schools and college campuses, the language of Hawai'i was found, if at all, taught in the foreign language departments.

The customs and traditions and even the cultural names of the people were suppressed in this recycling effort. The great makahiki celebrations honoring Lono, an important god of peace, harvest, agriculture and medicine were never observed or mentioned in the schools. Instead, Christmas was celebrated with plays and pageants. People were coaxed into giving children American names having no ties with their ancestors; names which described no physical substance, spiritual sense or human mood; names which could not call upon the winds or waters, the soil or heat; names totally irrelevant to the surroundings.

The arts and sciences of Hawai'i's ancestors were driven to near extinction. The advanced practice of healing through the medicines of plants, water or massage or just the uttered words were driven into the back countryside. The science of predicting the future through animal behaviors, cloud colors, shapes and formations of leaves on trees were discounted as superstitions and ridiculed as old folks tales. The Hawaiian culture was being ground to extinction.

In 1948, the United Nations adopted the Convention on the Prevention and Punishment of the Crime of Genocide which states in part:

In the present Convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (b) Causing serious bodily or mental harm to members of the group;*
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;*

The United States has since signed and ratified this convention.

Transmigration took place. The United States controlled immigration. Hawai'i witnessed a tide of Americans bringing with them a barrage of cultural, moral, religious and political concepts. Hawaiians were 'persuaded' into mimicking their ways, idolizing their heroes, and adopting their living styles. As Americans filtered into Hawaii, they took choice jobs with government agencies and management positions with businesses. They bought or otherwise acquired much lands and resources of Hawai'i. They gained power in Hawai'i, controlled greater chunks of the economy, controlled the public media, entrenched themselves in politics, and joined in the resocialization of the Hawaiians to believe they were Americans.

The military turned Hawai'i into its Pacific fortress converting Pearl Harbor from a coaling and fueling station to a major naval port. It bombed valleys and took a major island for its exclusive use as a target range. At will it tossed families out of homes, destroying sacred Hawai'i heirlooms and built instead naval communication towers emitting radiation and ammunition depots hiding nuclear weapons. It declared martial law at will, violating the United States constitution, and imposed military conscription over Hawaiian citizens. Trade was stopped. The United States Congress assumed control over foreign relations. Hawaiians could buy only American goods or foreign goods the United States approved. The Big Five controlled all shipping.

Every aspect of Hawai'i was Americanized. Military show of strength was constant. Trade was totally controlled. Education and media was regulated. The secret ballot itself became a farce.

ii. Hawaiian Statehood - 1959.

Finally, after three generations of resocialization, "Hawaiians" were given the opportunity to be equal Americans. The United States placed the following question to the "qualified" voters in Hawai'i: Shall Hawai'i immediately be admitted into the Union as a State? (The Admission Act of March 18, 1959, Pub.L. 86-3, 73 Stat. 4).

"Qualified" voters were Americans who were residents of Hawai'i for at least one year. The United States provided the vote for thousands of American citizens brought in through its transmigration program, through military assignments, and through generations of resocialization of Hawaiian citizens. Those who resisted the American domination and insisted on their Hawaiian citizenship could not vote.

In its posing the "statehood" question so adeptly, the United States government simply foreclosed any real choice of 'determination" by limiting Hawai'i to either remaining a territory of the United States or becoming a 'State" within its union. The question, "Should Hawai'i be independent?" was never asked.

The requirements of self-determination were not met.

SUMMARY

It is against this backdrop of an international perspective that the committee on Visioning Beyond the Legislative Mandate is considering the question of Hawaiian Sovereignty.

Along the first tract of human rights, that of the rights of indigenous people, clearly, the rights of the native Hawaiian people must be secured. They must be afforded an opportunity to choose for themselves the form of their own self-governance, control over natural resources, opportunities to educate their children, etc.

Along the second tract, that of the rights of indigenous and non-indigenous people who have become 'keiki o ka aina" and whose allegiance attaches to Hawai'i, the process of decolonization must begin. The people of Hawai'i, defined in a way which overcomes the manipulation of definition by the United States government, must be given the choice of determination ranging from integration within the United States of America or to emerge as an independent nation.

In the final analysis, the measuring standard of the 'spirit of self-determination" must be an international one. Otherwise, suspicion and accusations will continue to reign under the cloud of state and federal government manipulation and there will be no peace or true prosperity in Hawai'i.

CONCLUSION

E 'ākoakoa mai kākou, i ho'okāhi ka ha o ke ola, i ho'okāhi ke ola no ka ho'iho'i ea o nā Hawai'i. Come together as one with a single breath, for life, for the restoration of sovereignty. This was the call that went out to the Hawaiian people from the Hawaiian Sovereignty Advisory Commission. While our Commission represents diverse experiences and viewpoints, we have strived to work together for the purpose of uniting our people to re-establish a sovereign government for the Hawaiian nation. We are presenting our community, the Hawai'i State Legislature, and Governor John Waihee with a report which weaves together the various strands of historical and contemporary needs, concerns, thoughts, and dreams for Hawaiian sovereignty. We have woven this lei together. Please accept it with our aloha . . . aloha i ke akua, aloha 'āina, aloha kekāhi i kekāhi.

APPENDICES

- I. "Apology Bill" P.L. 103 - 150*
- II. HRS 6K. Kaho'olawe Island Reserve*
- III. Census Of Hawaiians By Moku (districts)*
- IV. HSAC Guidelines & Procedure*
- V. OSP Memorandum Regarding State Election Laws*

103D CONGRESS
1 ST SESSION

S.J. RES. 19

To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawai'i, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawai'i.

IN THE SENATE OF THE UNITED STATES

JANUARY 21 (legislative day, JANUARY 5), 1993

Mr. AKAKA (for himself and Mr. INOUE) introduced the following joint resolution; which was read twice and referred to the Select Committee on Indian Affairs

JOINT RESOLUTION

To acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawai'i, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawai'i.

Whereas, prior to the arrival of the first Europeans in 1778, the Native Hawaiian people lived in a highly organized, self-sufficient, subsistent social system based on communal land tenure with a sophisticated language, culture, and religion;

Whereas, a unified monarchical government of the Hawaiian Islands was established in 1810 under Kamehameha I, the first King of Hawai'i;

Whereas, from 1826 until 1893, the United States recognized the independence of the Kingdom of Hawai'i, extended full and complete diplomatic recognition to the Hawaiian Government, and entered into treaties and conventions with the Hawaiian monarchs to govern commerce and navigation in 1826, 1842, 1849, 1875, and 1887;

Whereas the Congregational Church (now known as the United Church of Christ), through its American Board of Commissioners for Foreign Missions, sponsored and sent more than 100 missionaries to the

Kingdom of Hawai'i between 1820 and 1850;

Whereas, on January 14, 1893, John L. Stevens (hereafter referred to in this Resolution as the "United States Minister"), the United States Minister assigned to the sovereign and independent Kingdom of Hawai'i including citizens of the United States, to overthrow the indigenous and lawful Government of Hawai'i;

Whereas, in pursuance of the conspiracy to overthrow the Government of Hawai'i, the United States Minister and the naval representatives of the United States caused armed naval forces of the United States to invade the sovereign Hawaiian nation on January 16, 1893, and to position themselves near the Hawaiian Government buildings and the Iolani Palace to intimidate Queen Lili'uokalani and her Government;

Whereas, on the afternoon of January 17, 1893, a Committee of Safety that represented the American and European sugar planters, descendents of missionaries, and financiers deposed the Hawaiian monarchy and proclaimed the establishment of a Provisional Government;

Whereas the United States Minister thereupon extended diplomatic recognition to the Provisional Government that was formed by the conspirators without the consent of the Native Hawaiian people or the lawful Government of Hawai'i and in violation of treaties between the two nations and of international law;

Whereas, soon thereafter, when informed of the risk of bloodshed with resistance, Queen Lili'uokalani issued the following statement yielding her authority to the United States Government rather than to the Provisional Government:

"I Lili'uokalani, by the Grace of God and under the Constitution of the Hawaiian Kingdom, Queen, do hereby solemnly protest against any and all acts done against myself and the Constitutional Government of the Hawaiian Kingdom by certain persons claiming to have established a Provisional Government of and for this Kingdom.

"That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the Provisional Government.

"Now to avoid any collision of armed forces, and perhaps the loss of life, I do this under protest and impelled by said force yield my authority until such time as the Government of the United States shall, upon facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands."

Done at Honolulu this 17th day of January, A.D. 1893.;

Whereas, without the active support and intervention by the United States diplomatic and military representatives, the insurrection against the Government of Queen Lili'uokalani would have failed for lack of popular support and insufficient arms;

Whereas, on February 1, 1893, the United States Minister raised the American flag and proclaimed Hawai'i to be a protectorate of the United States;

Whereas the report of a Presidentially established investigation conducted by former Congressman James Blount into the events surrounding the insurrection and overthrow of January 17, 1893, concluded that the United States diplomatic and military representatives had abused their authority and were responsible for the change in government;

Whereas, as a result of this investigation, the United States Minister to Hawai'i was recalled from his diplomatic post and the military commander of the United States armed forces stationed in Hawai'i was disciplined and forced to resign his commission;

Whereas, in a message to Congress on December 18, 1893, President Grover Cleveland reported fully and accurately on the illegal acts of the conspirators, described such acts as an "act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress", and acknowledged that by such acts the government of a peaceful and friendly people was overthrown;

Whereas President Cleveland further concluded that a "substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair" and called for the restoration of the Hawaiian monarchy;

Whereas the Provisional Government protested President Cleveland's call for the restoration of the monarchy and continued to hold state power and pursue annexation to the United States;

Whereas the Provisional Government successfully lobbied the Committee on Foreign Relations of the Senate (hereafter referred to in this Resolution as the "Committee") to conduct a new investigation into the events surrounding the overthrow of the monarchy.

Whereas the Committee and its chairman, Senator John Morgan, conducted hearings in Washington, D.C., from December 27, 1893, through February 26, 1894, in which members of the Provisional Government justified and condoned the actions of the United States Minister and recommended annexation of Hawai'i;

Whereas, although the Provisional Government was able to obscure the role of the United States in the illegal overthrow of the Hawaiian monarchy, it was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation;

Whereas, on July 4, 1894, the Provisional Government declared itself to be the Republic of Hawai'i;

Whereas, on January 24, 1895, while imprisoned in Iolani Palace, Queen Lili'uokalani was forced by representatives of the Republic of Hawai'i to officially abdicate her throne;

Whereas, in the 1896 United States Presidential election, William McKinley replaced Grover Cleveland;

Whereas, on July 7, 1898, as a consequence of the Spanish-American War, President McKinley signed the Newlands Joint Resolution that provided for the annexation of Hawai'i;

Whereas, through the Newlands Resolution, the self-declared Republic of Hawai'i ceded sovereignty over the Hawaiian Islands to the United States;

Whereas the Republic of Hawai'i also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawai'i, without the consent of or compensation to the Native Hawaiian people of Hawai'i or their sovereign government;

Whereas the Congress, through the Newlands Resolution, ratified the cession, annexed Hawai'i as part of the United States, and vested title to the lands in Hawai'i in the United States;

Whereas the Newlands Resolution also specified that treaties existing between Hawai'i and foreign nations were to immediately cease and be replaced by United States treaties with such nations;

Whereas the Newlands Resolution effected the transaction between the Republic of Hawai'i and the United States Government;

Whereas the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum;

Whereas, on April 30, 1900, President McKinley signed the Organic Act that provided a government for the territory of Hawai'i and defined the political structure and powers of the newly established Territorial Government and its relationship to the United States;

Whereas, on August 21, 1959, Hawai'i became the 50th State of the United States;

Whereas the health and well-being of the Native Hawaiian people is intrinsically tied to their deep feelings and attachment to the land;

Whereas the long-range economic and social changes in Hawai'i over the nineteenth and early twentieth centuries have been devastating to the population and to the health and well-being of the Hawaiian people;

Whereas, the Native Hawaiian people are determined to preserve, develop and transmit to future generations their ancestral territory, and their cultural identity in accordance with their own spiritual and traditional beliefs, customs, practices, language, and social institutions;

Whereas, in order to promote racial harmony and cultural understanding, the Legislature of the State of Hawai'i has determined that the year 1993 should serve Hawai'i as a year of special reflection on the rights and dignities of the Native Hawaiians in the Hawaiian and the American societies;

Whereas the Eighteenth General Synod of the United Church of Christ in recognition of the denomination's historical complicity in the illegal overthrow of the Kingdom of Hawai'i in 1893 directed the Office of the President of the United Church of Christ to offer a public apology to the Native Hawaiian people and to initiate the process of reconciliation between the United Church of Christ and the Native Hawaiians; and

Whereas it is proper and timely for the Congress on the occasion of the impending one hundredth anniversary of the event, to acknowledge the historic significance of the illegal overthrow of the Kingdom of Hawai'i, to express its deep regret to the Native Hawaiian people, and to support the reconciliation efforts of the State of Hawai'i and the United Church of Christ with Native Hawaiians:

Now, therefore, be it

1 *Resolved by the Senate and House of Representatives*
2 *of the United States of America in Congress assembled,*

3 **SECTION 1. ACKNOWLEDGEMENT AND APOLOGY.**

4 The Congress---

5 (1) on the occasion of the 100th anniversary of
6 the illegal overthrow of the Kingdom of Hawai'i on
7 January 17, 1893, acknowledges the historical sig-
8 nificance of this event which resulted in the suppres-
9 sion of the inherent sovereignty of the Native Hawaiian
10 people;

11 (2) recognizes and commends efforts of rec-
12 onciliation initiated by the State of Hawai'i and the
13 United Church of Christ with Native Hawaiians;

14 (3) apologizes to Native Hawaiians on behalf of
15 the people of the United States for the overthrow of
16 the Kingdom of Hawai'i on January 17, 1893 with
17 the participation of agents and citizens of the United
18 States, and the deprivation of the rights of Native
19 Hawaiians to self-determination;

20 (4) expresses its commitment to acknowledge
21 the ramifications of the overthrow of the Kingdom
22 of Hawai'i, in order to provide a proper foundation
23 for reconciliation between the United States and the
1 Native Hawaiian people; and

2 (5) urges the President of the United States to
3 also acknowledge the ramifications of the overthrow
4 of the Kingdom of Hawai'i and to support reconcili-
5 ation efforts between the United States and the Na-
6 tive Hawaiian people.

7 **SEC.2. DEFINITIONS.**

8 As used in this Joint Resolution, the term "Native
9 Hawaiian" means any individual who is a descendent of
10 the aboriginal people who, prior to 1778, occupied and ex-
11 exercised sovereignty in the area that now constitutes the
12 State of Hawai'i.

13 **SEC.3. DISCLAIMER.**

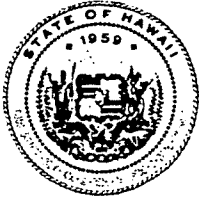
14 Nothing in this Joint Resolution is intended to serve
15 as a settlement of any claims against the United States.

ACT 340, SLH 1993

**CHAPTER 6K
KAHO'OLAWA ISLAND RESERVE**

§ 6K-9 Transfer. Upon its return to the State, the resources and waters of Kaho'olawe shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawai'i.

All terms, conditions, agreements, and laws affecting the island, including any ongoing obligations relating to the clean-up of the island and its waters, shall remain in effect unless expressly terminated.



OFFICE OF STATE PLANNING

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JIM WARE, Governor

FAX: Director's Office 587-2848
Planning Division 587-2824

October 28, 1993

TO: Members of the Reapportionment Committee
Hawaiian Sovereignty Advisory Commission

FROM: Norma Wong *Norma Wong*

SUBJECT: SUGGESTIONS FROM THE DATA SUB-GROUP OF THE
INTERAGENCY ADVISORY TASK FORCE

One task of the Apportionment Committee will be to certify that the recommended voting districts for the Hawaiian Convention were based on accurate data. This will not stem from the necessity to follow the election laws of Hawaii or the United States, but due to the Commission's own decisions to follow certain general principles or desirable special election options. Those principles include fairness; access; equal representation and protection; rational basis; and no discrimination on the basis of gender, age, or ability to pay a poll tax.

To offer assistance in your decision making, the bill creating the Commission also called on the Governor to form an Inter-Agency Task Force. Recently, specialists in Hawaii demographics gathered to discuss data sources. This Data Sub-group of the Task Force came to a consensus on certain issues.

If the Commission decides that districting will be based in anyway on the geographic distribution of Hawaiians, the Sub-group felt confident that the US Census is the best available source. That confidence stems from a comparison of Census figures across islands with the figures from the Department of Health Surveillance Survey, birth statistics, Department of Human Service client statistics, and Department of Education statistics.

The Sub-group did not claim that the Census figures were the most accurate in terms of the total number of Hawaiians, but the most accurate in their distribution across islands. Since the apportionment process is one of dividing and assigning according to a plan or proportion, it is the relative distribution of Hawaiians that is important.

The Department of Health's surveillance survey has often been referred to as a more accurate tool for estimating the total size of the Hawaiian population. The Data Group discussed the Survey and how numbers from a sampling are inflated for a statewide look at health problems using census figures. The Department of Health was clear that the Surveillance data would not be reliable for looking at populations in smaller areas such as judicial districts.

Resident Population and Land Area by District						
		Total Pop.	Hawn. Pop.	% Hawn.	Sq. Miles	% of
		90 Census		in State		Tot.Land
Hawaii						
	Puna	20,781	3,953	2.9%	495.5	8%
	South Hilo	44,639	8,469	6.1%	394.2	6%
	North Hilo	1,541	188	0.1%	277.0	4%
	Hamakua	5,545	844	0.6%	617.5	10%
	North Kohala	4,291	1,028	0.7%	126.0	2%
	South Kohala	9,140	2,215	1.6%	308.4	5%
	North Kona	22,284	3,655	2.6%	543.2	8%
	South Kona	7,658	1,800	1.3%	225.9	4%
	Ka'u	4,438	968	0.7%	1,033.0	16%
Maui						
	Hana	1,895	906	0.7%	230.1	4%
	Makawao	29,207	3,684	2.7%	279.6	4%
	Wailuku	45,685	6,092	4.4%	122.4	2%
	Lahaina	14,574	1,668	1.2%	95.4	1%
Kahoolawe					45.0	1%
Lanai		2,426	287	0.2%	140.9	2%
Molokai						
	Molokai	6,587	3,230	2.3%	245.2	4%
	Kalawao	130	52	0.0%	14.0	0%
Oahu						
	Honolulu	377,059	29,276	21.1%	85.6	1%
	Koolaupoko	117,694	20,099	14.5%	66.5	1%
	Koolauloa	18,443	4,550	3.3%	67.3	1%
	Waialua	11,549	1,395	1.0%	110.1	2%
	Wahiawa	43,886	2,489	1.8%	39.0	1%
	Waianae	37,411	15,245	11.0%	61.0	1%
	Ewa	230,189	18,913	13.6%	174.4	3%
Kauai						
	Hanalei	4,631	579	0.4%	126.0	2%
	Kawaihau	15,627	3,021	2.2%	70.5	1%
	Lihue	10,663	1,181	0.9%	84.5	1%
	Koloa	11,368	1,201	0.9%	51.3	1%
	Waimea	8,888	1,528	1.1%	220.0	3%
Niihau			226	0.2%	72.0	1%

PROPOSED GUIDELINES AND PROCEDURES

A. DECISION-MAKING

1. Quorum: A majority of appointed Commissioners, or eleven (11) members, shall constitute the quorum required for regular business of the Commission. Two-thirds of appointed Commissioners, or thirteen (13) members, shall constitute the quorum required for special business.
2. Consensus: Decision-making shall be by consensus, signifying unanimous assent, or no objections, by all members present. If consensus cannot be reached, the Chairperson may call for a vote.
3. Voting: Any votes taken will be governed by the procedures under Robert's Rules of Order.
4. Designees: Each Commission member may designate an alternate who may serve in his or her absence. A Designee shall not assume the duties of the Officers or Committee Chairpersons. A list of regular Designees shall be kept by the Chairperson.
5. "Any member planning to be a delegate to the Hawaiian convention shall be recused from any decision-making relating to the apportionment of districts and delegates. No member who participated in any decision-making relating to apportionment shall be eligible to serve as delegate to the Hawaiian convention." Act 359, SLH 1993.

B. OFFICERS

1. Election: The Officers shall be a Chairperson and Vice-Chairperson. The Officers shall be chosen from among duly appointed Commission members who will not run as delegates to the Hawaiian Convention.
2. Term: The Officers shall serve from time of election through June 30, 1994.
3. The Chairperson: The Chairperson shall preside over all regular and special meetings of the Commission. The Chairperson shall perform such other duties as are incident to the office or required by the Commissioners. Committee membership shall be voluntary, but the Chairperson shall be authorized to fill Committee vacancies to assure Committee work gets done. The Chairperson shall be the spokesperson of the Commission, unless otherwise delegated. The Chairperson shall be an ex-officio member of all Committees.

4. The Vice-Chairperson: The Vice-Chairperson shall assist the Chairperson. The Vice-Chairperson shall be an ex-officio member of all Committees. In the absence or disability of the Chairperson, the Vice-Chairperson shall assume the powers and duties of the Chairperson.

C. COMMITTEES

The Commissioners may create and appoint such Standing or Special Committees as the business of the Commission may require and in order to effectuate the purposes of the Act. Commission members may serve on more than one Committee. Committee members shall elect a chair. Each Committee shall be responsible for assessing the costs and logistics of activities within the scope of its Committee.

The following are Standing Committees of the Commission:

1. Elections Committee: The Elections Committee shall consist of not less than three (3) members who shall develop recommendations with respect to the conduct of special elections relating to the Act.

The Elections Committee shall also develop a Timetable for the election of Delegates.

The Elections Committee and the Hawaiian Convention Committee (described below) shall have joint responsibility for developing the plan which shall be submitted to the 1994 Legislature on the qualifications of voters and the conduct of special elections.

The Elections Committee shall develop recommendations with respect to establishing the eligibility of convention delegates.

2. Apportionment Committee: The Apportionment Committee shall consist of all members who will not run as a delegate to the Hawaiian Convention. The Apportionment Committee shall develop recommendations with respect to (1) establishing the size and composition of the convention delegation and (2) apportionment of voting districts.

"Any member planning to be a delegate to the Hawaiian convention shall be recused from any decision-making relating to the apportionment of districts and delegates. No member who participated in any decision-making relating to apportionment shall be eligible to serve as delegate to the Hawaiian convention." Act 359, SLH 1993.

3. Hawaiian Convention Committee: The Hawaiian Convention Committee shall consist of not less than three (3) members who shall review and suggest revisions to the ballot question, "Shall a Hawaiian convention be convened to propose an organic document for the governance of a Hawaiian sovereign nation?"

Committee members shall develop recommendations with respect to the Convention's timeframe, scope, and agenda.

4. Education Committee: The Education Committee shall consist of not less than three members who shall develop recommendations with respect to educational activities for Hawaiian voters, a voter registration drive, and research activities in preparation for the convention.

Committee members shall work closely with the Hawaiian Convention Committee to develop recommendations with respect to the Convention's scope, timetable and agenda.

5. Vision Beyond the Legislative Mandate Committee: The Vision Committee shall consist of not less than three members who shall explore, develop and recommend options to the Commission outside the scope of Act 359.

6. Executive Committee: The Chairperson, Vice-Chairperson, and Committee Chairs shall serve on the Executive Committee. The Chairperson shall chair the Executive Committee. The Executive Committee shall have primary responsibility for personnel, budget and related administrative matters.

The Executive Committee shall develop a Workplan and corresponding Timetable based on the roles and responsibilities outlined above and pursuant to the Act. The Executive Committee shall also develop recommendations with respect to public hearings.

The Executive Committee shall develop enabling legislation based on the recommendations of the Standing Committees as approved by the Commission.

D. INTERAGENCY TASK FORCE

All requests for support from members of the Interagency Task Force shall be coordinated through the Office of State Planning.



OFFICE OF STATE PLANNING

Office of the Governor

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JOHN WAIHEE, GOVERNOR

FAX: DIRECTOR'S OFFICE 587-2848
PLANNING DIVISION 587-2824

September 23, 1993

TO: All Commissioners
Hawaiian Sovereignty Advisory Commission

FR: Norma Wong

Norma Wong

RE: Adherence to General Election Laws

One of the threshold issues is whether the entire process needs to adhere to the general election laws of Hawaii.

As an Interagency Task Force assignment, this issue was discussed at length with the Office of the Attorney General. The Commission may wish to seek other legal advice, but it is helpful to know what the AG would be willing to defend--or not, and what type of advice the AG has to avoid the need for any defense.

The advice is that this process not be governed by the general election laws of Hawaii.

The legal reason can be expressed as avoiding the "cart before the horse" dilemma. The entity this process seeks to create, and the document that would govern this entity has not yet been recognized by the State or Federal governments. For that matter, there has been no determination as to whether that recognition is desired. State law should not govern that which it has no legal relationship with yet.

The challenge remains on how to ensure that the process can withstand scrutiny and be legitimate in the eyes of the people as well as those governments you seek relationships with. Toward these ends, **the process should follow the general principles embodied in the general election laws, the U.S. Constitution, and international law.**

A working list of general principles:

- Fairness
- Access
- Equal representation and protection
- **Rational basis**

- Right of persons to vote shall not be abridged on account of sex; by reason of failure to pay any poll or other tax; or on account of age, for those who've reached the age of majority

As a starting point, you can begin with the requirements in the general election laws, and determine which provisions you wish to adopt and which to change.

This analysis begs the question: What are the State's interests if the process does not fall under the general election laws? First, to support the will and right of the Hawaiian people to determine their own future. Second, for those Hawaiians who are Hawaii residents, to ensure their access to a fair and broad-based process. Third, to approve a plan by which public moneys will be spent.