

Hawai`i National Transitional Authority

86-641 Pu`uhulu Rd.

Wai`anae, Hawai`i

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By Pōkā Laenui (Hayden F. Burgess), Convenor

Special Rapporteur on the promotion of truth, justice, reparation and guarantees of non-recurrence
srtruthcalls@ohchr.org

Regarding Inputs to report on Legacy of Colonialism

Transitional justice measures to address the legacy of serious violations of human rights and humanitarian law committed in colonial contexts

Transmitted herein are responses to the four specific concerns of the Special Rapporteur along with a listing of 11 Annexes followed by those annexes.

May I also extend an invitation to the Special Rapporteur and members of the Office of the High Commissioner for Human Rights to visit the situation “on the ground” and with the Hawaiian Nationals as well as other individuals who constitute the people whose self-determination has been affected by the aggression of the United States in 1893 and the current colonization of Hawaii which persists because of such aggression. I have tried to be as extensive in my response as possible, but the word limitation imposed by this questionnaire does not allow me or any other single person to give a full picture of the legacy of colonialism in Hawaii.

I would also strongly suggest a visit to Alaska and a visit to the native people who have also been very adversely affected by the vote “for Statehood” in 1958. There too, the fraud was practiced in altering the term “self” as well as the concept of “determination”, redefined to mean essentially the transmigrated American citizens and their military personnel to overrun the plebiscite process which allowed for only one choice, integration into the U.S. as a State of the U.S. union. In that sense, Hawaii and Alaska are twin examples of this double fraud committed not only against the people who are the subject of the U.N. Charter dealing with people who are residents of nonself-governing territories but equally against the U.N. General Assembly who received this fraudulent U.S. report in 1959 which resulted in removing these two territories from the list of places to be decolonized while colonization persisted, but under a different name. I make this recommendation based on my personal visits to Alaska and my consultation with indigenous peoples of Alaska while I served as the political spokesperson and Vice-President of the World Council of Indigenous Peoples, circa 1984 to 1990.

Aloha,
Poka Laenui

1. Please indicate which mechanisms have been established in the concerned country to hold accountable persons accused of committing or bearing responsibility for gross violations of human rights and serious violations of international humanitarian law in colonial contexts. If such mechanisms were not adopted, please explain why. Please indicate the challenges and opportunity encountered in investigating, prosecuting, and sanctioning such crimes.

Response to Specific questions of the Special Rapporteur: **Response:** Concerned country: Hawaii

People to be held accountable: U.S. officials, many of whom are now deceased, and continuing administrations up to the present day who maintain Hawaii as a U.S. colony. **See Annex 1, on the early history, Hawaiian Sovereignty Advisory Commission**

Violation of human rights and international humanitarian law in colonial contexts: The theft of a nation (Hawaii) and the denial of self-determination since 1893 to present.

Brief historical review: Hawaii, a member on the international community, recognized by a majority of similarly recognized nations and with treaties and executive agreements with most nations of the international community was aggressed against by military forces of the United States in January 1893. The U.S. under President Benjamin Harrison participated in establishing a puppet government (Provisional Government) to substitute for the Constitutional Hawaiian Monarchy, which puppet government attempted to cede Hawaii to the United States under the Harrison administration, and failing to do so subsequently created a "Republic of Hawaii" (during the Grover Cleveland administration, waited for a change in U.S. Presidency). U.S. President Cleveland described the prior act of the U.S. in his joint address to Congress, Dec. 18,

1893, as "an act of war against a peaceful, loving and confiding nation." **See Annex 2, Public Law 103-150. Annex 3, President Cleveland's message about Hawaii, December 18, 1893.** After Cleveland left office and William McKinley became President, the "Republic of Hawaii" "ceded" Hawaii to the United States.

In 1946, under G.A. Resolution 66(1), the U.S. submitted itself under U.N. General Assembly scrutiny as a colonial power over Hawaii with a sacred trust obligation to bring the people of this non-self-governing territory to self-government immediately. Instead, the U.S. did nothing to meet this obligation, but continued carrying out a program of transmigration of U.S. citizens into the territory, a program of destruction of the indigenous culture and people of the territory, further militarization of the territory, control over the education, media, transportation, banking and economic oversight and trade of Hawaii, and governed Hawaii with a territorial governor and all judges appointed by the U.S. President. After 13 years of such colonial control, the U.S. presented a question of "Statehood" for American citizens living in Hawaii to choose Statehood or have Hawaii remain a territory of the U.S. Hawaiian Nationals were not permitted to vote while the U.S. military were welcomed to vote in this Statehood plebiscite. Alternatives for independence or free association as set forth in standards of international law and later

codified in G.A. Resolution 1541 were never given as choices. Having limited the Hawaiian “self” to U.S. citizens (including the U.S. Military and government workers residing in Hawaii for 1 year) and restricting the question of “determination” to only the option for Statehood or territorial status, the U.S. vitiated the application of self-determination. **(See Annex 4, Dialogue Conversation between William F. Quinn, Governor of the Territory of Hawaii Appointed by the President of the United States and subsequently 1st Elected Governor in the State of Hawai`i, William S.**

Richardson, former Chief Justice of the Hawaii State Supreme Court, Mahealani Kamau`u, Executive Director of the Native Hawaiian Legal Corporation, and Pōkā Laenui,)

The U.S. conducted its Statehood plebiscite which resulted in only 35% of those eligible to vote turned up to the polls. 65% voted with their feet against statehood by staying home. Of that 35% who voted, 94% voted for statehood. Viewed in the reverse, 67% of those classified by the U.S. as American citizens in Hawaii did not support Statehood. The loss of a people’s self-governance should, at a minimum, require the support of at least 50% of the properly constituted people. The Hawaii Statehood vote failed. Based on this plebiscite, the U.S. reported to the General Assembly of the United Nations that the people of Hawaii exercised self-determination and elected to become a member of the U.S. union of States. [See Annex 5, A Call for Review of the Historical Facts Surrounding UNGA Resolution 1469 \(xiv\) of 1959 Which Recognized Attainment of Self-Government for Hawaii -](#)

A fraud has been committed by the U.S. The U.N. General Assembly accepted this fraudulent representation as decolonization and removed Hawaii from the list of places to be decolonized. Thus, the General Assembly committed a violation of their “sacred trust” obligation to bring to self-determination the people of the Hawaiian territory. The U.S. also violated its sacred trust obligation and continues to do so today.

Mechanisms to hold U.S.A. responsible:

I: International (See Annex 6)

II: Domestic (American) response (See Annex 7)

Challenge in Investigating and Prosecuting such Crimes:

To challenge the current colonization of Hawaii has become impossible, equivalent to asking a thief to sit in judgment of itself. Many challenges have been brought but they can only be brought within the courts of the State or the Federal government, all controlled by the U.S. administration, the very culprits of the present occupation of Hawaii. See Annex 8 and 9 et seq for a sample list of court cases.

In the State of Hawaii legislative arena, there has also been investigations and findings by independent bodies, but without any results. For example, in 1994 (Annex 1), the Hawaiian Sovereignty Advisory Commission investigated and issued its findings of the overthrow of the Hawaiian nation, but the State failed to follow through with the completion of a Hawaiian Sovereignty Convention, defunding the convention before it was able to reach its conclusion and make recommendations on Hawaiian Sovereignty to the native Hawaiians.

At the United Nations, numerous appeals have been taken by Hawaiian nationals starting as early as

1984 at the U.N. Working Group on Indigenous Populations via interventions from the World Council of Indigenous Populations to the most recent appeal to members of the U.N. General Assembly in a Call for Review of the Historical Facts Surrounding UNGA Resolution 1469 (xiv) of 2959 Which recognized Attainment of Self-Government to Hawaii (See Annex 5)

2. Please indicate which measures have been established in the concerned country to inquire on and establish the truth about gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such mechanisms were established, please indicate how was the outcome of the inquiries made public and conveyed to victims and civil society in the affected country as well as to civil society in the former colonizing power. If such mechanisms were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

Response: At the U.S. Federal level, inquiries had been conducted and the results presented in a Presidential Message to the Joint Houses of Congress by President Grover Cleveland (Cleveland message to Congress, Dec. 18, 1893) (Annex 3) finding that the U.S. minister plenipotentiary committed an act of war against a peaceful, friendly, and compassionate nation and this act of war was the basis upon which the lawful government of Hawaii was overthrown. (See U.S. public law 103-150 (1993) Annex 2) The U.S. Congress issued a public apology to the native Hawaiians and suggested that appropriate reparations would follow. However, the U.S. has maintained its superior jurisdiction over the Hawaiian Islands as well as over the native Hawaiian citizens to whom it has apologized. It continues to maintain a military and Federal control over 1/3rd of the islands` lands where major military bases exist.

In its apology response, the United States Congress has treated the people from whom it deprived the right of self-determination as merely an indigenous race, failing to recognize that the subjects/citizens of Hawaii were of many races and that today, there remains people who maintain their allegiance to their Hawaiian nationality who are of many races. This is a matter of national allegiance and not of one's racial ancestry.

At the State of Hawaii level, there has been a creation of an office to represent exclusively the interest of the indigenous people of Hawaii called the Office of Hawaiian Affairs (OHA). However, that office's trustees are elected by all American voters and only American voters. Hawaiian Nationals are prohibited from voting in that elective process and any American can run for such a trustee position. OHA is part of the State of Hawaii structure and must operate within the State's constitutional limits. Those limits include the supremacy of the Federal constitution.

At the level of the State and the Federal judiciary, the Hawaiian nationals have made numerous attempts at raising the issues of the international crimes of the government. However, neither the Federal nor the State courts are willing to give any credence to the international obligations even after it has been pointed out that the U.S. Constitution (Article 6) regard treaties as part of the body of

domestic laws. The Hawaiian nationals cannot get a fair shake within the U.S. judicial system. (See Annex 8 and 9 et seq in State of Hawaii v. Andrea L. June)

Hawaiian nationals are subject to the U.S. Federal and State laws but are not permitted to serve on a jury, are not permitted to vote in public elections, are forced to pay taxes or face confiscation of property and/or imprisonment, are prohibited to obtain employment in Hawaii, are prohibited from obtaining a driver's license or to open a bank account as non-U.S. citizens. (See Annex 10, Resolution of the Hawaii National Transitional Authority)

The State of Hawaii has created a Native Hawaiian Convention consisting of native Hawaiians elected by native Hawaiians to convene and propose a form of Hawaiian governance. A process of public elections in which native Hawaiians would elect native Hawaiians were conducted and a convening of 89 elected native Hawaiians gathered, conferred with one another over a period of several years, and was in the process of concluding its findings and recommendations to the native Hawaiian public, including a recommendation of integration within the United States and another recommendation of independence from the United States. However, before this convention could conduct its final meetings, the State refused to continue funding this publicly elected body and the convention has remained in limbo for over 20 years, unable to conclude its work and recommendations to the Hawaiian people. (See Annex 11, Report on the Na`i Aupuni Congregation by Poka Laenui)

At the present time, the Hawaiian nationals are at the mercy of the U.S. Federal administration and/or the State administration, having locked all power and control over the legislative and judicial authority in their hands. The only opportunity for a change seems to be an intervention by the UN General Assembly through the continuing obligation of the UN through its charter which addresses the obligation for self-determination of non-self governing territories. There are also obligations of States under **A/RES/25/2625 - Declaration on Principles of**

International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations

3. Please indicate which measures have been established in the concerned country to provide reparation to victims of gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If such processes were established, please indicate which type of reparation was provided to victims (for example: restitution, compensation, satisfaction, and /or rehabilitation). If such measures were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

Response: No reparations have been provided to the Hawaiian people for the gross violation of human rights committed by the United States of America. The U.S. government had issued an apology to the native Hawaiians (leaving out the many other people who also constituted those who constituted the "people" whose rights to self-determination have been violated) but nothing has moved forward following that public apology (U.S. Public Law 103-150) (Annex 2). The U.S.

continues to operate its colonial regime in Hawaii under its domestic “Statehood” structure. The victims of this incursion of self-determination have never been appropriately consulted in a process of reparation.

4. Please indicate which measures have been established in the concerned country to memorialize the gross violations of human rights and serious violations of international humanitarian law committed in colonial contexts. If yes, please indicate whether memorialization processes were established in the affected country and /or in the former colonizing power. If such measures were not adopted, please explain why. Please indicate the challenges and opportunities encountered in this regard, whether victims and affected communities have been effectively consulted in the design and implementation of these measures, and whether a gender perspective was adopted.

Response: Measures to memorialize the gross violations of human rights and serious violations of international humanitarian law have been taken by the U.S. Federal government through an apology resolution (Public Law 103-150) (Annex 2) and State level legislation which has also essentially noted the same illegality cited in the Federal legislation. The State of Hawaii has attempted to move forward to address the violations committed by the creation of the Native Hawaiian Convention, the Native Hawaiian Elections Council, and the Hawaiian Sovereignty Advisory Commission. However, the State has failed to fulfill the promise of having native Hawaiian elected delegates propose to the Hawaiian people a form of Hawaiian governance by cutting the continued funding for this process to be completed. (See Annex 11, a summary of these processes published in *Hulili, Vol 22, No. 1, The 2016 Na`i Aupuni Congregation: A Brief Study of a Practice of Indigenous self-Determination* by Poka Laenui. © 2019 by Kamehameha Schools.)

The memorialization of the gross violations of human rights had also taken place by a broad public recognition of the 100th anniversary of the overthrow in January 1993 in a massive gathering over 3 days at `Iolani Palace by private individuals and organizations, which event was broadcast by Hawaii Public Radio and subsequently primary portions of the broadcast put into cassette audio tapes. This taped set was accompanied by a publication, *Three Days in January*. and available from this writer.

Many other memorialization activities have been conducted from 1980s (most notably annual observations called Sovereignty Sundays) to the present by the civilian Hawaii population so much so that the Hawaii Department of Education now incorporates lessons of the overthrow in the curriculum of the schools. However, to reflect the continued oppression of colonization, such schools also hold morning ceremonies to pledge one’s allegiance to the flag of the United States as part of its daily routine as well as the singing of the U.S. national anthem at school sporting events, instilling the colonial resocialization among the students. Public education is required for all minor children unless one is otherwise enrolled in private schools or “home schooled” with an approved curriculum. Public schools are by far the vast form of education in Hawaii making up approximately 83% of students below the age of 18. <https://www.tohawaii.com/schools-in-hawaii.php>