

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

May 15, 2019

Council Chamber, 8th Floor

CONVENE: 9:02 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Michael J. Molina
Councilmember Keani N.W. Rawlins-Fernandez
Councilmember Yuki Lei K. Sugimura

NON-VOTING MEMBERS:

Councilmember Tasha Kama

STAFF: James Krueger, Legislative Analyst
Clarita Balala, Committee Secretary

Seated in the gallery:

Wesley Crile, Legislative Analyst
Julie Reed, Legislative Analyst

Zhantell Lindo, Council Aide, Molokai Council Office (via telephone conference bridge)

Denise Fernandez, Council Aide, Lanai Council Office (via telephone conference bridge)

Mavis Oliveira-Medeiros, Council Aide, Hana Council Office (via telephone conference bridge)

Jennifer Mather, Executive Assistant to Councilmember Tamara Paltin

Don Atay, Executive Assistant to Councilmember Shane M. Sinenci

ADMIN.: David A. Galazin, Deputy Corporation Counsel, Department of the Corporation Counsel

Seated in the gallery:

Michele McLean, Director, Department of Planning
Karla Peters, Director, Department of Parks and Recreation
Donald S. Guzman, Prosecuting Attorney, Department of the Prosecuting Attorney

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

Rowena Dagdag-Andaya, Acting Director, Department of
Public Works

Wade Anzai, Police Lieutenant, Department of Police

OTHERS: Dr. David Keanu Sai

Autumn Ness
(53) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*

CHAIR PALTIN: . . .*(gavel)*. . . Aloha mai kakou.

VICE-CHAIR SINENCI: Aloha.

CHAIR PALTIN: It's 9:02, May 15, 2019, and will the Planning and Sustainable Land Use Committee come to order. I'd like to ask everybody in the gallery to silence their cell phones or any other noisemaking devices at this time. My name is Tamara Paltin, and I'm the Chair of the Planning and Sustainable Land Use Committee. Here with us today, I have my Vice-Chair, Shane Sinenci.

VICE-CHAIR SINENCI: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. Councilmember Mike Molina.

COUNCILMEMBER MOLINA: Good, Madam...good morning, Madam Chair.

CHAIR PALTIN: Good morning. We have Council Vice-Chair Keani Rawlins-Fernandez.

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. And we have Council Chair Kelly King.

COUNCILMEMBER KING: Aloha kakahiaka.

CHAIR PALTIN: Aloha kakahiaka. We also have Councilmember Yuki Lei Sugimura.

COUNCILMEMBER SUGIMURA: Good morning.

CHAIR PALTIN: Good morning. And Councilmember Tasha Kama, she's a...not a Voting Member of the Committee but she's joining us here today.

COUNCILMEMBER KAMA: Aloha Poakolu, Chair.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

CHAIR PALTIN: Aloha Poakolu. And Alice Lee is running a... Councilmember Alice Lee is running a little bit late but she'll be on her way. And Councilmember Riki Hokama is also a Non-Voting Member but if he'd like to join us, he's more than welcome.

COUNCILMEMBER KING: Chair, I think he's off-island.

CHAIR PALTIN: Oh, he's off-island. Okay. Thank you. Today with us for Corporation Counsel, we have David Galazin.

MR. GALAZIN: Good morning, Chair.

CHAIR PALTIN: Good morning. And joining us from the Administration as the day goes on, we have Director of the Department of Management, Sandy Baz; Department of Parks and Recreation, Director Karla Peters; Director of the Department of Planning, Michele McLean; from the Department of Police, we have Lieutenant Wade Anzai; from the Deputy Prosecuting Attorney or Department of Prosecuting Attorney, we have Don Guzman; and from the Department of Public Works, we have Rowena Dagdag-Andaya. And somebody should be joining us from the Department of Fire and Public Safety. We also have with us today Dr. David Keanu Sai.

MR. SAI: Good morning.

CHAIR PALTIN: Good morning. And our Committee Staff today is Clarita Balala and James Krueger. Good morning. On the Molokai Office, we have Zhantell Lindo; in the Lanai Office, Denise Fernandez; and in the Hana Office, Mavis Oliveira-Medeiros. Today, we have one item on the agenda. It's PSLU-1(3), Update on Land Use and Planning in Consideration of Hawaii's Status Under International Law. And for individuals wishing to testify in the Chamber, please sign up at the desk just outside the Chamber door. If testifying from one of the remote testimony sites, please sign up with District Staff. Testimony will be limited to the item on the agenda today. And pursuant to the Rules of the Council, each testifier will be allowed to testify for up to three minutes per item. When testifying, please state your name and the name of any organization you may be representing. If you are a paid lobbyist, please inform the Committee. We have established the connection to the Council District Offices. I'll start with Molokai. Molokai Office, do you have anyone wishing to testify today?

MS. LINDO: Good morning, Chair. This is Zhan at the Molokai District Office. There is no one here to testify.

CHAIR PALTIN: Thank you. Ms. Fernandez at the Lanai Office, do you have anyone wishing to testify?

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez at the Lanai Office and there is no one waiting to testify.

CHAIR PALTIN: Good morning. Thank you. And, Ms. Oliveira-Medeiros from the Hana Office, do you have anyone wishing to testify?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MS. OLIVEIRA-MEDEIROS: Good morning, Chair. This is Mavis Oliveira-Medeiros from the Hana Office and there is nobody here waiting to testify.

CHAIR PALTIN: Thank you, Ms. Oliveira-Medeiros. In the Council today, we have one testifier signed up for public testimony, Ms. Autumn Ness, on PSLU-1(3).

. . .BEGIN PUBLIC TESTIMONY. . .

MS. NESS: Aloha, Council. My name is Autumn Ness. I'm actually not testifying on behalf of myself. I'm testifying for Noelani Ahia, who asked me to share some words with you today as an ally. So, I am reading directly from her letter. Aloha, Councilmembers. I want to first mahalo Councilwoman Tamara Paltin for her courage and bravery and her willingness to seek the truth. In order to heal from our collective past, we must tell the truth. For many, Dr. Sai's presentation may be shocking if you're under a different impression about the political status of Hawaii, but this truth is critical to having a firm political analysis on making decisions that affect our home. I would like to illustrate a small example of why his work and that of so many in the lahui is critical to the health and well-being of our home and our people. I cannot attend the presentation this morning because I am next door at the Maui-Lanai Island Burial Council defending my mookuauhau, genealogy, against settler developers who would like to have a contested case against me to prove that I am not who I say I am. I can only laugh at the situation as this is a common settler fear tactic and it's hilariously colonial. But the implications are very real and far from funny as these tactics are commonly used to further attempt to snuff out our inherent rights. I, however, refuse to be afraid and I'm happy to see a case through because I know who I am and my ancestors know who I am, and it is to them that I am obedient. But I would like you to consider why any kanaka maoli should ever have to defend who they are to a foreign presence just for the right to speak on behalf of one's ancestors, whose bones are being desecrated in real time. In my own ancestral homeland, I must prove to a foreigner with zero mookuauhau, with zero intent...inherent...and inherent kuleana that I belong here. What is the political framework that exists that allows such absurdity to ensue? This is some serious plantation mentality, white-men-in-suits BS. But as kanaka maoli, it's a reality we live with every day. I'm asking you to connect the dots between the illegal occupation, settlers who wield the political power with their weaponized military, and the lived experiences of kanaka maoli. The implications of an illegal settler state having power in our homeland has resulted in genocidal effects. The health and well-being of the aina and kanaka, which are deeply interconnected and interdependent, are constantly under threat by the settler states destroy-and-replace tactics. The dispossession from our land and the forced assimilation were attempts to make us forget who we are, so eventually all land claims would vanish and the settler state could continue its greedy economic monopoly with relative ease. That is the genocide that goes with imperialism and colonialism. And for a 126 years, we have been resisting the snuffing-out of our true identity. If not for our kupuna, who still live through us and speak through us, the settler state might have won. But we are still here singing the songs of the ancient ones and reclaiming

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

our inherent right to be who we are as kanaka maoli and as Kingdom citizens. Ola na iwi; the bones live. He alii ke aina...ka aina, ke kaua ke kanaka; the land is chief, man is servant. I need to remind anyone that tuned in later that those are not my words, those are the words of Noelani Ahia, and I'm just here speaking on her behalf. Mahalo.

CHAIR PALTIN: Thank you, Ms. Ness. Anyone else wishing to testify on this item today? Members, seeing there are no more individuals wishing to testify, without objection, I will now close public testimony.

COUNCILMEMBERS: No objections.

. . .END OF PUBLIC TESTIMONY. . .

PSLU-1(3) UPDATE ON LAND USE AND PLANNING IN CONSIDERATION OF HAWAII'S STATUS UNDER INTERNATIONAL LAW

CHAIR PALTIN: So, the agenda today is an Update on Land Use and Planning in Consideration of Hawaii's Status Under International Law, PSLU-1(3). Pursuant to Rule 7(B) of the Rules of the Council, the Committee intends to receive a presentation from Dr. David Keanu Sai, relating to an update on land use and planning in consideration of Hawaii's status under international law and other related matters. I wanted to have this presentation because of all the discussions and presentations we've been having about ceded lands, and particularly at Leialii, West Maui. And, you know, whether we are a kingdom or part of the United States, I do think that we need affordable low-income housing. But I can see that, you know, the issue is much bigger than just 200 rental units. And so, I thought it was prudent to have this presentation. In 2011, my predecessor in this seat, the Councilmember for West Maui, introduced to this body and they passed a unanimous resolution to support Mele Carroll's Hawaii Concurrent Resolution 107, which would form a joint investigation on the status of two agreements related to Kingdom status. Ultimately, that effort did not move forward at the State level but many of the people on the Council at that time still work in this building serving the people of Maui County. A lot has happened since 2011, and I felt we need an update and was very fortunate to have the opportunity to present to you today the expert in this field, Dr. David Keanu Sai. Dr. Sai has a Ph.D. in Political Science, specializing in international law, state sovereignty, international laws of occupation, United States Constitutional law, and Hawaiian constitutional law, from the University of Hawaii at Manoa. Because of his expertise in these subject areas, the Chair will ask he be designated as a resource person pursuant to Rule 18(A) of the Rules of the Council if there are no objections?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Seeing none, at this time I will ask Dr. Sai to proceed with his introduction and his presentation.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: Aloha.

COUNCILMEMBERS: Aloha.

MR. SAI: . . .(*PowerPoint Presentation*). . . Mahalo, Tamara, Councilmembers, Members of the Committee, and people from Maui. So, my name is Keanu. As the Chair stated, I have a Ph.D. in Political Science. A lot of people tend to think my area is Hawaiian studies, it's not. Just to give you a background of my academic qualifications, back in 1982, I graduated from the Kamehameha Schools. After Kamehameha Schools, I went on to a military college, New Mexico Military Institute, where I received an Associate's Degree in Pre-Business, and a commission as a Second Lieutenant in the Army Reserves. Then in 1987, I received my Bachelor's Degree in Sociology from the University of Hawaii at Manoa. In 2004, I received my Master's Degree from the University of Hawaii in Political Science specializing in international relations. And then in 2008, I received a Ph.D. from the University of Hawaii at Manoa in Political Science where my doctoral focus was on the continuity of the Hawaiian Kingdom as a country under international law. For people who don't know what a Ph.D. is, a Ph.D. is not a theory, although we have what is called political theory in political science that could be the subject of a dissertation, mine is international relations and public law. So, a Ph.D. is something original to contribute to the discipline, which means there are no two Ph.D.'s alike. They're all different and unique. For my doctoral dissertation, I needed a...members on my doctoral committee to be of a very high caliber because of the substance of what I'm going to be covering, which is the Hawaiian Kingdom. And when I say the Hawaiian Kingdom, I'm referring to a country that my great-grandfather was born in 1880, not a sovereignty group. I'm talking about a country that my great-grandparents were from, right. But why is it that I didn't know anything from my great-grandparents to me when I was at the Kamehameha Schools? I knew nothing about the Hawaiian Kingdom, nothing at all. This presentation is going to be explaining that. But in light of the complexities, in light of ideologies, in light of ignorance and confusion, I needed to make sure that my doctoral committee were above reproach. And the job of members of a doctoral committee is to refute the research. It's called analytical rigor. And doctoral candidates have to defend their research. And if there is something wrong in that research, you don't pass unless you address it, right. So, it's not like you get a A+, A-, B, C, D, or F. It's either pass or no pass. So, I had three political science professors who sat on my committee, all with a law background and theory of sovereignty. Neal Milner, he...you may see him on *KITV* news, the political pundit. His background is law and judicial behavior. In fact, his subject of his doctoral research was the Miranda Rights. It kind of gives you an idea of how long ago he got his Ph.D. He has since retired. He used to be the Ombudsman at the University of Hawaii. Katharina Heyer, public law. John Wilson, theory of sovereignty that goes back to the Greek polis states, all the way to the welfare state, all the way to the states we have today. And then I had the Dean of the Law School, University of Hawaii, Richardson School of Law, Aviam Soifer. His Master's Degree, Master's in Law, LLM [sic], was in constitutional law, right. So, I needed somebody who could contribute to my research that comes at it from an American constitutional perspective. And then I had also another dean from the University of London, Matthew Craven, state sovereignty and international law. And of this committee, I

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

only had one Native Hawaiian on my doctoral committee, Professor Jon Osorio. The rest were non-native because the issue is not native. I'm political science. The issue is looking at people that can contribute to my research to ensure that I have my attention to the task, and that I appropriately defend it academically and not politically. I was able to get that dissertation passed. Okay. So, that's where I come from. That's my background. I teach graduate courses at the University of Hawaii, College of Education; and also undergrad courses...undergraduate courses at Windward Community College. I also sit on doctoral committees myself. A lot of people tend to kind of paint this image of me as if I'm a Hawaiian activist. A lot of people think I'm in Hawaiian studies, and I say hey, that's racial profiling. Good, 'cause that was a joke. I'm glad you guys laughed. That's my background. Okay. Now, I also served as an expert witness in seven civil and criminal cases. Okay. And my expertise was on the continuity of the Hawaiian Kingdom as an independent state, state sovereignty, and international law. Now, I also have a military background. When I transferred to the University of Hawaii in 1984, I joined the 1st of the 487th Field Artillery as a Lieutenant, Second Lieutenant. In fact, my former unit just got deployed to Afghanistan. So, we were trained in real-life situations. I progressed as a Lieutenant through a Captain. My last command was Charlie Battery. I was a battery commander, one of five howitzers. Okay. A lot of military training we had to go to...go through, right. That all contributed to the way I approached things, very pragmatic, very task-oriented, very much attention to detail and follow the regs. If anybody is in the military, they can understand what I'm talking about. Military professionalism is what I have 'cause it has been instilled in me. Honesty and integrity, because lies erode credibility and undermine confidence. Straightforwardness adds frankness to honesty and integrity. Candor is the forthright offering of unrequested information when something is known to be wrong. Something that I was taught as a young lieutenant, sir, with all due respect, let me explain to you the situation. Confidence because no task is daunting. And respect for the rule of law. These are the qualities that are in me, and the people that know me know that, right. But I carry that from not only being raised as a Hawaiian but also being trained as an officer. So, what is the legal status of the Hawaiian Kingdom of my great-grandparents? Let's start with them first, not with what we think today. Well, according to the Permanent Court of Arbitration, which is the oldest world court since 1899, it said that in the 19th Century, the Hawaiian Kingdom existed as an independent state recognized as such by the United States, Great Britain, and various other states. So, when you see the word state, state means country, but the word independent is important because you can be a nation or a state and not be independent. Say the State of New York, State of New York is not independent but it exists in the federation within the United States. The United States of America is independent. And what independence refers to, it's a political term, which applies to its laws. So, within US territory, okay, within US territory, only American laws apply over that territory, to the exclusion of Canadian law over Canadian territory, to the exclusion of Mexican law over Mexican territory. That is what is called independence and sovereignty. Okay. So, when the United States recognized the Hawaiian Kingdom as an independent state, what they're basically stating is that their citizens when they come to Hawaii are subject to Hawaiian Kingdom law, statutory, case law, proclamations, administrative policies, the legal order, right. That's what

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

independence means. But also for Hawaiian subjects like for my great-grandfather, William Kuakini Simerson, if he was to travel to California, he'll be subject to American law. He could not claim protection under Hawaiian law. So, that's what sovereignty means, right. Well, the Hawaiian Kingdom was recognized since 1843 as an independent state. Now in 1893, there were only 44 independent states in the world, just 44. Hawaii was one of 'em. And it was called the family of nations. By 1945, it went up to 47 independent states. Forty-six of them formed the United Nations in San Francisco. And by today, there are 197 independent states throughout the world. One hundred ninety-three of them are members of the United Nations. You don't have to be a member of the UN to be an independent state. An example would be Switzerland. Switzerland did not join the United Nations until 2002, right. So, the issue is really whether or not you're an independent state, not...what...not what organization are you a member of, right, and that's important. Oh, wait, let me back up. So, what I have here is a short video clip that kind of puts it all into context. It's about seven minutes long. Here you go.

. . .BEGIN VIDEO PRESENTATION. . .

MR. SAI: What happened in 1893, okay, on January 16?

MR. DONOVAN PREZA: All of the history book say the missionaries were essentially in control since they came. They arrived in 1820 and they did this, this, this, and this to us. And it's been all downhill ever since. And Keanu asked the question if the missionaries were in control since 1820, why did they have to overthrow themselves in 1893? Simple question, profound answer, right? Because in that answer, you have to then acknowledge that well then maybe they weren't in as much control as we thought they were.

MR. WILLY KAUAI: Keanu's dissertation in...that he completed in 2008, that was also I think a leaping point, a launching point for my dissertation topic on the topic of citizenship. Keanu's dissertation had laid out this legal and political history of Hawaii particularly as it relates to the evolution of its constitutional system but also the evolution of its international character, right. And it really focused and paid quite a bit of attention to the significance of Hawaiian independence on November 28, 1843.

MR. UMI PERKINS: I remember the moment when I realized that the political status of Hawaii was one of an occupied state after Keanu Sai had spoken to my classes. And so, he made a good argument that Hawaii's annexation was illegal. Then after the class, we were sitting in the lounge and I said Hawaii's annexation was illegal so what is all of this, meaning the State government, the State Capitol, the military, the Department of Education, all of it? And he said, occupation. And that was a light bulb. That's all I needed to hear was the word occupation because I knew what that word meant.

MR. RON WILLIAMS: What Keanu brought was this understanding that the movement before had been a movement to break away from the United States and have some

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

kind of special place. And what he showed was Hawaii never was part of the United States.

MR. PREZA: Right, no more assumptions, no more yes, but this relies on this being true, which relies on this being true, which break it down to the bottom, right. And that's kind of what Keanu, I don't know, knowingly or unknowingly, was doing in that class was breaking down our assumptions. Well, we assumed the missionaries were in control, well, why do you think that? I don't know. I...that's just the story I've heard.

MR. WILLY KAUAI: Right, a lot of that, that work that Keanu has done, his scholarship has shown us that blueprint of the 19th Century of what Hawaii looked like as an independent State, and it projected a future at the same time, right, to say this is how it operated when Hawaii was an independent State and this is how it could operate in the future.

MR. NIKLAUS SCHWELZER: The expert on all of this difference between colonization and occupation and the status of independent states and how an independent state can be annexed because there's a way to do that, the foremost expert here is Keanu Sai.

MR. SAI: Well, what I thought I knew was that Hawaii was a part of the United States and I'm in the Army. You know, I'm in the field artillery. I began to realize then that what I thought I knew all of a sudden was not relevant anymore because what I found out just from my military perspective, what happened in 1893, January 17th was an illegal overthrow of the Hawaiian Kingdom government, not the country. I knew in the intel briefs that we received from Desert Storm, there was a puppet government there set up by Iraq called the Provisional Government of Kuwait. And here I'm looking at Hawaii, there's these guys are calling themselves the Provisional Government of Hawaii. And then later, that provisional government of Kuwait I knew changed its name to the Republic of Kuwait. That's exactly what the provisional government did of Hawaii, they changed its name to the Republic of Hawaii, and then asked to be annexed just as the Republic of Kuwait was asking to be annexed.

MR. GEORGE H.W. BUSH: Iraq and its leaders must be held liable for these crimes of abuse and destruction.

MR. SAI: And they were disguising themselves to be Kuwaitis when in fact they were Iraqi nationals, and they called themselves the Provisional Government of Kuwait. I'm serious. I'm not making this stuff up. And then they later changed their name to the Republic of Kuwait, and they asked Iraq to annex them. And when they annexed them, then it became a Province of Kuwait, I mean of Iraq. I have not lied.

MR. BUSH: It's a redoubling of Saddam Hussein's efforts to destroy completely Kuwait and its people.

MR. SAI: And then just as Iraq unilaterally ceased Kuwait and said you're annexed, that's the same thing that the United States did in 1898 in a joint resolution of Congress saying we annexed you. The parallels were unbelievable. And I quickly saw Hawaii's

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

situation just because of my experience with the first Gulf War. I didn't really understand how a country can become a part of another country. I would only find that out later. But I knew Hawaii was not part of the United States and that we're occupied. And that just as Iraq was not complying with the law of occupation, the Hague and Geneva Conventions, the United States was not complying with the law of occupation either. So, were they...where Iraq occupied Kuwait for seven-and-a-half months, I'm looking at this situation back in 1992, almost a century of occupation. That's when I began to realize I might be in the wrong army.

MR. BUSH: Kuwait is liberated. Iraq's army is defeated. Our military objectives are met. Kuwait is once more in the hands of Kuwaitis, in control of their own destiny. We share in their joy, a joy tempered only by our compassion for their ordeal. Tonight the Kuwaiti flag once again flies above the capitol of a free and sovereign nation.

. . . END OF VIDEO PRESENTATION. . .

MR. SAI: So, that's how I came to realizing Hawaii is occupied. I didn't learn it from a professor. I didn't learn it from taking a class. I learned it from my experience at Fort Sill, Oklahoma going through officer's advance course as a Captain during the first Gulf War and receiving real life intel coming in. It was only until 1992 when I started to look up my genealogy, 'cause my tutu asked me I need to know my genealogy 'cause then she would...she said I would know who I am and what I need to do, is when I started to uncover these things. And that's when I started to realize wow, the parallels from what happened with Iraq and Kuwait to Hawaii and the United States was undeniable. And I set out on a course to try to get this information refuted. It was almost as if I woke up and everybody is still sleeping. And this was that road that I chose to take to address some very, very hard issues, very hard issues. And it was my military training that actually allowed me to do that. We're very disciplined in the Army. We used to be trained to take on the Soviet Union back then. We mastered the art of combined arm tactics, surgical hits, but all of that is based upon intel, intel, information that informs decision-making and not making a decision and cherry-pick from intel to confirm what you think you know. If anybody made that famous was Vice President Dick Cheney during the first Gulf War, find me weapons of mass destruction even though there weren't any, and that's what was called cherry-picking, which led to a lot of deaths. So, that's my background. That's how I came to this, right. And then I took the necessary steps to become academically qualified in this area, to make it not political, make it historical, make it legal, yeah. So, the point that I was making there is that when you are an independent state, which Kuwait was since 1961, an independent state has what is called a government. Those two are not synonymous. A country is separate from its government. And a government, it's separate from its country. Because during international relations between countries, governments get overthrown when they're at war. International law regulates war. That's why it's regulated by the Hague and Geneva Conventions and what is called International Humanitarian Law. But the overthrow of the Kuwaiti government back in 1990 did not mean the Kuwait country ceased to exist. It still existed and we knew that. We called that occupation. And that Iraq was supposed to have been

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

administering Kuwaiti law until they get a treaty of peace. Annexation of Kuwait did not terminate Iraq's liability or responsibility. Well, the same situation happened to Hawaii. So, Hawaii sovereignty was recognized in 1843, November 28th. And when I say the country, the Hawaiian Kingdom it was multi-ethnic. In fact, when you say Hawaiian in the Hawaiian Kingdom era, it was a short term for Hawaiian subject, which is a nationality. You can be Chinese and be Hawaiian. You can be black and be Hawaiian. You can be haole and be Hawaiian. You can be Aboriginal or kanaka and be Hawaiian. But under American law, the term Hawaiian has...it's ethnocentric. It's based on ethnicity. That's not what the Kingdom was about. Okay. So, I just want to make that point. Okay. And that sovereignty was exercised by the Hawaiian Kingdom government. Well, that government we know was illegally overthrown in 1893, admitted it was illegal by the United States President Cleveland. But by overthrowing the government, that did not mean the country still exist [sic]...the country ceased to exist. So, when I'm looking at this from my tutu man's standpoint, my great-grandfather, that means he was still a part of another country after 1893. How did he become an American from being a Hawaiian? And I say that by nationality, not by ethnicity 'cause he was also English ethnically. So, in light of that, which is pretty much what I'll be covering here is tied to the Land Use Commission. Now, this is a workshop, yeah, it's what we do at UH, we teach. And I appreciate this opportunity to teach, to share, right. Well, the nine duties of the committee is based on jurisdiction, right, jurisdiction. What is jurisdiction? It's the official power to make legal decisions and judgments. Okay. Now, jurisdiction under international law are through treaties. So, one country can have jurisdiction in another country under the Hague Convention, right, or the Vienna Convention, or the Status of Forces Agreement, okay, that deals with military troops, or jurisdiction under municipal law, national laws, they're through a country's legislation, not international law. So, before the committee can claim jurisdiction under United States municipal law, the islands of Maui, Molokai, Lanai, and Kahoolawe need to be within the territory of the United States. 'Cause remember we talked...I shared a bit about independence and American law applying over American territory? Well, we have to be sure that these three islands that come under the jurisdiction of Maui County Council and the Land Use Commission are actually within the United States. You can't assume it is. I remember in the Army, a Colonel once told me, Lieutenant, never assume 'cause you make an ass out of you and me, assume; presume; sir, I'll get back to you with that information. So, how did the Hawaiian Islands become a part of the United States? That's a fundamental question, right, how? Well, annexation, this is how annexation takes place between countries called international law. Cession of state territory is the transfer of sovereignty over state territory by the owner state to another state. And the only form which a cession can be affected is an agreement embodied in a treaty between the ceding and the acquiring state. Remember that term ceded lands that Chairman, the Madam Chair brought up earlier, ceded lands, that's assuming something got ceded. This is how cession is supposed to take place. You're going to start to see some things that may shock you. So, here we have two sovereign entities, two sovereign countries, both have their governments that represent them. One will cede territory to another country either voluntary, right, they negotiate, or involuntary, as a result of war. There's nothing wrong with acquiring territory through war, it's called Treaty of Conquest or otherwise the Treaty of Peace. So, here's the United

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

States of America. The majority of the United States was acquired through ceded lands from foreign countries. The first land to be transferred to the United States from a foreign country happened in 1803, and that's called the Louisiana Purchase. Okay. So, prior to 1803, French law applied over that territory. After 1803, American law applied over that territory. That was followed up in 1819, a cession from Spain, which is the area that we know today as Florida; Pacific Northwest from the British in 1846; Alaska, 1867, from Russia. These were voluntary cessions negotiated like conveying property, right, compensation. But you also have an example, a few examples but one here a treaty of conquest, a treaty of peace, Treaty of Guadalupe Hidalgo, 1848, that ended the Mexican-American War. All territory north of the Rio Grande, that area used to be Mexican territory subject to Mexican municipal law. After 1848, it was subject to American municipal law. So, what is the authority of Hawaii's annexation? Obviously, we would have to look for a treaty especially when we keep saying ceded lands today. 'Cause ceded lands implies there's been a transaction, something was ceded. Actually, it goes back to July 7, 1898, a joint resolution to provide for annexing the Hawaiian Islands to the United States. A joint resolution is not a treaty. A joint resolution is municipal law of the United States Congress. It's not a treaty, and that's important. Now what were the congressmen saying at that time regarding this prospect of annexing Hawaii without a treaty? Well, of many senators and representatives on the record, Senator William Allen from Nebraska said it best. He said the Constitution and the statutes are territorial in their operation. That is they can have no binding force or operation beyond the territorial limits of the government in which they are promulgated. In other words, the Constitution and statutes cannot reach across the territorial boundaries of the United States into the territorial domain of another government, and affect that government or persons or property therein, much in the same way as the County Council cannot pass ordinances that apply to Hawaii Island. Hawaii Island cannot pass any ordinance that applies to Maui. At the macrolevel that would apply to the national legislation of the United States Congress. And then he goes on to say for the record, the joint resolution of annexation is ipso facto, null and void. So, it's not arguing you can't annex. He says this never happened because it's an American law. It's not a treaty. Two years later, the United States Congress passed another law called the Organic Act, April 30, 1900, renaming the Hawaiian Kingdom government, its infrastructure to the Territory of Hawaii. And in 1959, the United States passed another law, Public Law 86-3, called the Statehood Act. Again, it's a municipal law. And then in 1993, the United States Congress passed a joint resolution apologizing for the illegal overthrow. But again, it's just an American law limited to US territory. So, what does the United States Supreme Court say about US laws? It says neither the Constitution nor the laws passed in pursuance of it, referring to the Federal Constitution and the Federal statutes, have any force in foreign country. They don't have any force in a foreign country because of its...because of that country's independence. See, you see how important that independence is. Okay. And then it goes on to say the Supreme Court and the operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. My doctoral dissertation focused on international law, that was the area. So, you might say we've been unknowingly trying to explain a football game using baseball rules. I'm bringing in football rules to a football game, and all of a sudden everything starts to make

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

sense, and that's when it gets scary. On December 18, 1893, the United States President admitted to the United States Congress in a manifesto by an act of war, the government of a friendly and confiding people has been overthrown. Act of war, that is a trigger word for state of war, which initiates the law of occupation. It takes it out of the state of peace. Overthrowing the government does not equate to an overthrow of the Hawaiian Kingdom as an independent state. So, the focus should have been not getting a government but whether or not the Hawaiian Kingdom still exists. That's the focus that nobody was looking at. January 17, 1893 marks the beginning of the American occupation. So, what were the laws of occupation that existed at that particular time? Okay. In political science and law, we called it intertemporal law. You cannot judge a situation back then using law of today. You have to use the law that was contemporaneous to that time, right. Well, the law of occupation in 1893 obligated the United States to administer Hawaiian Kingdom law. They did that in Mexico during its war. They did that with the Spanish colonies in 1898 during the Spanish-American War. These obligations are now codified under Article 43 of the Hague Convention and Article 64 of the Geneva Convention. That's what I knew as an Army officer. I was not a political scientist back then. I was just a grunt, but I understood what was going on. So, one example or impact of this situation regarding the failure to administer Hawaiian Kingdom law or the failure to acquire the Hawaiian State by annexation, yeah, through cession, deeds, land titles, all land titles in the Hawaiian Kingdom in Hawaii today originate from 1845 through either royal patents or Land Commission awards. And then from there, the people who were the recipient of a royal patent or a Land Commission award if it's in fee simple, can transfer that property under a deed, a warranty deed, which will be filed in the Bureau of Conveyances. But before you can file a deed in the Bureau of Conveyances, okay, a deed, a lease, or any other conveyance which includes a mortgage, you need to get it notarized, called the Hawaiian Kingdom notary. After 1893, there were no Hawaiian Kingdom notaries. You had what is called insurgents that were propped up by the United States ambassador who President Cleveland referred to as the word insurgents. In fact, he asked Liliuokalani in agreement, which was the basis of Mele Carroll's House Concurrent Resolution 107, those two agreements. One of those agreements basically was addressing the fact that President Cleveland entered into an agreement with the Queen if she could grant amnesty to these insurgents after she is restored. The reason why President Cleveland asked her for amnesty was because what they committed as insurgents was treason. And under Hawaiian Kingdom law, you get executed if you're convicted by a jury. That was the reason why you had those negotiations going on after January 17, 1893, between Albert Willis, the US Ambassador assigned to Hawaii and Queen Liliuokalani, yeah. So, in light of the fact that all government operations stopped, royal patents could not be issued by the provisional government because President Cleveland also specifically stated to the Congress that the provisional government owes its existence to an armed invasion by the United States, an armed invasion. Deeds of conveyance of real property and mortgages after January 17th could not be considered lawfully executed because who's the registrar of the Bureau of Conveyances? Is it insurgent? Who's the notary? How can you qualify the deed when the notary is supposed to make sure that the person is signing it of his own free will? If the guy is an insurgent, how do you not know that person was conveying the property has a gun to his head? That's the purpose of a

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

notary, acknowledgment. So, you see how complex this is starting to get. It's not a native issue, this is a governmental issue where everyone is affected, everyone. So, here we have a chain of real estate, chain of title. All titles originated 1845. There is no royal patent that was issued before 1845. That person who received the patent, okay, let's say in 1854, may have conveyed it to someone in 1874 by getting it notarized and recorded in the Bureau of Conveyances that still exists today. Then that person conveyed it in 1884, 1894, 1897, and then somebody claims to own it today. The problem here, there's a break in the chain of title. No treaty. There's no cession. So, if there's no cession, then who are the notaries after 1898? They're not Hawaiian Kingdom notaries. And then in 1893, the failure of the United States to administer Hawaiian law, and if they did, you would have had Hawaiian notaries, Hawaiian subjects, and you would have had transfers of property even during occupation. But it didn't happen. It took out those titles. So, basically the title companies in Hawaii have not done a good job in their title search. And these title searches, their accuracy are now being challenged, which means people have title insurance from Chicago Title, Tigor, Stewart Title, to actually pay off their loans. That's how this works. This is not an activist approach. This is such a conservative approach to a very complex situation. So, why is it that we don't know this information? And people who are probably listening to this for the first time are probably in shock. You know, I say that it...people tend to quickly go from the OMG to the WTF. Well, here's the answer why we don't know and it's okay 'cause I'm not here to blame anybody, we're all victims of circumstance. The insurgents, they're all dead. Their children are not insurgents, right. If my dad committed a crime, don't blame me. Hold my dad accountable, right. So, this is not about blaming, this is about understanding. So, here is a guy named Samuel Damon, he's an insurgent. By the way, he's a Hawaiian subject. He's Hawaiian not by ethnicity, right. And in 1895, when he also served as trustee of the Kamehameha Schools, he stated on the record if we are ever to have peace and annexation, the first thing to do is to obliterate the past, obliterate the past. Now, that is a arrogant statement but it speaks to something more heinous if it's carried out into a policy. It's called denationalization. So, denationalization is a international term, not to be confused with assimilation, that's within local politics. Denationalization is to obliterate the national consciousness of the occupied state. And denationalization in 1919 after World War I was designated as a war crime during occupations, specifically the war crime attempts to denationalize the inhabitants of occupied territory. Now, in World War II, after Italy invaded and occupied a portion of Yugoslavia, they employed denationalization for four years, from 1941 to 1945 at the death of Mussolini. So, stemming from Italy's occupation during the second World War, Yugoslav charge number 1434, this was in 1945, given to the legal committee, committee number three of the United Nations at that time, not to be confused with the United Nations the organization, but the United Nations of allied forces who are fighting in World War II. It stated, apart from killing, deporting, and interning innocent persons, the Italians started a policy on a vast scale of denationalization. As part of such policy, they started a system of re-education of Yugoslav children. They took over all the schools. This re-education consisted of forbidding children to use the Serbo-Croat language, to sing Yugoslav songs, and forcing them to salute in a fascist way. Keep that it in mind. Where they did not succeed 'cause they only had control of the children for four years, Hawaii control

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

would take place over a century, unfettered. Nineteen oh six, that statement by Samuel Damon became a policy in the Board of Education. And this is where you have the program for patriotic exercises in the public schools. Now, each of you here have a copy of these documents, yeah, for your records, all the Members of the Committee. So, everything that you see in this PowerPoint, you actually have the PDFs for your review after. The theme of the program was to indoctrinate the children of the Hawaiian Islands to be American and to speak English. Now, let's keep this in context. This is my tutu's generation, not my great-grandparents' generation, my tutu's generation. The United States could not convince my great-grandfather that he was American. They couldn't. But they're going to convince my tutu. In 1907, *Harper's Weekly* magazine published an article on this brainwashing. And they visited three schools, Kaiulani Public School, grades one through eight; Kaahumanu Public School; and Honolulu High School, before the name was changed to President William McKinley High School in 1911. And here at the command of the principal, this picture shows the 714 school children saluting. And the caption says what they say at the command of the principal, we give our heads and our hearts to God and our country, one country, one language, one flag. This scene shows a salute to the American flag which flies on the grounds of the Kaiulani Public School, which has many Japanese pupils. The drill was constantly held as a means inculcating patriotism in the hearts of the children. That term inculcate is brainwashing through repetition. That's the definition of inculcate. Now, when I first saw this with my experience in the military, I'm saying we go to war against these kind of guys. I could not believe that was in Hawaii. But we hear stories from kupuna they said they get beaten for speaking English, or sorry, speaking Hawaiian. We hear those stories but we couldn't connect it. I kind of thought it was more racial. I think what is more heinous, this was policy. Did you know even Japanese children who spoke Hawaiian were punished because Hawaiian was a national language of a country called the Hawaiian Kingdom like Spanish is the national language of a country called Spain. Italian is the national language of a country called Italy. This was not Native Hawaiians speaking in the corner. Hawaiian laws were both in Hawaiian and English. So, the issue was not ethnic but natives being the majority of the children were the ones who got hit the hardest. Then in 1976, we have this teacher's manual from the Board of Education, the Americanization of Hawaii. So many things right in front of us but they never tend to make sense. I mean it's like we've been desensitized. So, by the time this information has been institutionalized during my tutu's generation, more so, during my father's generation when he attended Saint Louis. And then by the time I got to Kamehameha, out of sight, out of mind. I didn't know anything. Now, that is an effective policy, effective, very effective. And that you have to respect but it's still illegal. And today, we're the product of that. That's why we don't know--all of us. Donald James Wheal, he's a famous novelist, I love this quote, so appropriate, when a well-packaged web of lies has been sold gradually to the masses over generations, the truth will seem utterly preposterous and its speaker a raving lunatic. So true. Did you know that's exactly how I felt in 1994? Everybody thought I was a lunatic, yeah, what do you mean the Hawaiian Kingdom still exists, you crazy. Oh, constantly. Then I got to go get my Ph.D. to prove it. And then I got to stack my committee members with people of high caliber to see if they can refute it, yeah. So, how are we going to address this? How are we going to address this problem? 'Cause now I'm

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

gonna walk you through that process of how a case went to the Permanent Court of Arbitration in the Netherlands; how a meeting took place with an ambassador from Rwanda; how that led to entering the University of Hawaii to engage head-on Americanization. This is how it all started. State sovereignty still exists. It never left. The country still exists. It's not the United States. But there is nothing there to speak on its behalf. Well, that government as we know was illegally overthrown in 1893. Well, in 1996, the Council of Regency was formed. People right off the bat would think sovereignty movement. No, no, this is not chasing sovereignty. This is following precedents. Addressing over a century of occupation, a council was formed in similar fashions to governments in exile formed in London during World War II, when their countries were occupied. In particular, Belgium. Belgium formed a Council of Regency in London after King Leopold was caught by the Nazis in their invasion. So, in the absence of a monarch, you have a regency. Regency is not a monarch. A regency is an entity that serves in the absence of a monarch made up of cabinet ministers. So, as the Belgian Council was established from the Article 82 of the Belgian Constitution of 1821, they're in London in 1841, the Hawaiian Council of Regency was established under Article 33 of the Hawaiian Constitution of '64. The council was comprised of myself as Chairman and Minister of the Interior; Minister of Foreign Affairs, Umialiloa Sai who recently passed away; Minister of Finance, Mrs. Kauai Sai-Dudoit; and Attorney General, Mr. Dexter Kaiama, who's a practicing attorney. You have a...we had a strategic plan back then. Now mind you, this was back in 1996. Basically, three phases, and this is where my military comes out, you don't enter...you don't engage anything without a plan, right. So, phase one, verification of the Hawaiian Kingdom as an independent state. We needed an outside entity to verify Hawaii's existence, not we saying it exists. We needed verification from outside. Once we get verification, it moves to phase two, exposure of Hawaiian Statehood within the framework of international law, and the law of occupation as it affects the realm of politics and economics at both the international and domestic level. And then, it would naturally move to phase three, restoration of the Hawaiian government, Hawaiian Kingdom, sorry, as an independent state and subject of international law, where the occupation will eventually come to an end. Now, this information I just shared with you is now going to be tested at the Permanent Court of Arbitration in the Netherlands, outside of Hawaii. The Permanent Court of Arbitration was established under the 1899 Hague Convention where countries would try to resolve their disputes. And if they can't resolve their disputes, they use the other Hague Conventions to regulate the war, with the institution there, the Permanent Court, was to resolve disputes of an international character. In this case that went there in 1999 was called Larsen versus Hawaiian Kingdom. And that's me there up on the top left making oral agreements in The Hague. So, the Permanent Court of Arbitration is a intergovernmental organization. And what they do is they create ad hoc tribunals. You don't have standing tribunals, you have ad hoc tribunals. And arbitrators are put together by consent of the parties that reflect the particular dispute. So, the arbitrators are not just judges but also experts in the area. Okay. That's the significance of arbitration. So, the PCA first has to ensure that it has what is called institutional jurisdiction. Locally, we might say to ensure that they have standing of the parties, that there are certain requirements that have to be met. One, at least one party has to be a state, an existing state. And if it's an existing state, it

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

has to have a government representing that existing state in a dispute that they're gonna form the tribunal. So, here's a case between two different states. And the United States also uses the Permanent Court of Arbitration. In this case, in 2011, Ecuador versus the United States. What you have here is a treaty dispute but they had to ensure that both the United States and Ecuador were states. And here you notice the name of the claimant, Ecuador state, United States state. Then they formed the tribunal. Second is between a state and an international organization. This is between Peru and the United Nations. They identified Peru as a state, United Nations as an international organization. And then we have the Larsen versus Hawaiian Kingdom, between a state and a private entity. They identified Lance Larsen as a private entity and the Hawaiian Kingdom as a state. And here was the dispute that was submitted to the tribunal. This dispute is what is called the subject matter of the tribunal, not the jurisdictional aspect of whether or not the Hawaiian Kingdom exists. Lance Paul Larsen, a resident of Hawaii, brought a claim against the Hawaiian Kingdom by its Council of Regency on the grounds that the government of the Hawaiian Kingdom is in violation of the treaties for allowing the unlawful imposition of American municipal laws over him within the territorial jurisdiction of the Hawaiian Kingdom, which led to his unfair trial and his incarceration on the island of Hawaii. That was the subject of the dispute. It was not whether or not the Hawaiian Kingdom exists. They verified the Hawaiian Kingdom does exist as a state, and now they're going to form a tribunal to address that particular issue. And what came into play is what was called the indispensable third party. Okay. So, here they identified the three arbitrators. Two of them became judges on the International Court of Justice. One currently sits on it, James Crawford; high-caliber people sitting on this tribunal. Ninia Parks was the attorney representing Lance Larsen. And that's me, the agent representing the Hawaiian Kingdom. So, I'm very familiar with that case. What I found ironic is when I came home and I tried to explain it to people, they're telling me, no, that's not what happened, but yet they had no background of the case itself. And it was like to...with all due respect is like talking to a tree but it's called denationalization, just confusion. So, here's a short three-minute clip of utilizing this forum to present Hawaii at the international level in the Netherlands in December of 2000.

. . . BEGIN VIDEO PRESENTATION. . .

MR. SAI: The Dominion of the Hawaiian Kingdom. In summary from 1840, the Hawaiian Kingdom possessed a constitutional government with elected and appointed officials and a complete system of civil and criminal laws to govern Hawaiian territory. On April 8, 1842, King Kamehameha III in Privy Council commissions three envoys to secure international recognition of Hawaiian independence. And these individuals are Timoteo Haalilio, William Richards, and Sir George Simpson. On December 19, 1842, Hawaiian envoys secured the United States President Tyler's recognition of Hawaiian independence. November 28, 1843, the British government and the French government formally enter into a declaration recognizing Hawaiian independence. In our pleadings, we refer to that as the 1843 Anglo-Franco Proclamation. From that point, Hawaiian has had its Statehood recognized as being independent. As such, it

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

began to enter into these treaties, Austria-Hungary, Denmark, France, Germany, Great Britain, Italy, Japan, Netherlands, Russia, Spain, and the United States of America. International recognition is evidence that the Hawaiian Kingdom had diplomatic representatives as of 1893 from those countries as far as consulates and embassies. Rather what we find is that the United States has never expressed itself as an occupier. Who would? They will never admit to occupation, but yet to admit to occupation is in a sense to admit to the continued existence of the Hawaiian Kingdom as an independent state, which is really the crux of the matter which is actually what is holding up you might say this issue to be resolved, thus the legal order, thus the reestablishment of the government, thus the relationship between its nationals.

UNIDENTIFIED SPEAKER: I mean to be slightly unkind but thus the issue in rem. The point is that if the Hawaiian Kingdom continues to exist, its existence is in rem. It's not in personam. Well, the Hawaiian existence...the Hawaiian Kingdom doesn't exist solely in the opinion of Mr. Larsen.

MR. SAI: Right, but that existence should not be dependent upon an occupier because you basically put the occupier at...on an equal footing with the Hawaiian Kingdom in its own territory. So, really what needs to be addressed is what came before the occupation whether the statehood or whether the legality or illegality of the Hawaiian Kingdom, not the illegality or legality of the United States as an occupier. Should the tribunal find it has jurisdiction, we are prepared to submit an offer of proof. We felt that this tribunal would offer some clarity so that for the first time, we'll have a third party to present these type of merits that can be scrutinized by international law rather taking it before a United States tribunal, which could not rule on it to the detriment of itself. So, in that sense, there is really no other way to address this issue and the opportunity did arise because it was Mr. Larsen who was adhering from Hawaiian Kingdom law, and if the United States was adhering to occupation, not whether they're illegal or illegal, but if they were adhering to the laws of occupation, we wouldn't be here right now.

. . . END OF VIDEO PRESENTATION. . .

MR. SAI: So, this kind of gives you an idea of where you go with this information, right, to a third party, an international body but also the terminology that needs to be understood. Here in Hawaii, we don't have the understanding of these terms. We don't understand territorial sovereignty, independence. We don't understand in rem, in personam, yeah, unless you're an attorney. But these are real strong issues that have profound effect. And this was the first time this Hawaii was now reintroduced back into the international level, back in the year 2000 in The Hague. Well, the *American Journal of International Law* explained this case very succinctly, okay, when they give reviews of world court decisions. And the *American Journal* stated at the center of the PCA proceeding was that the Hawaiian Kingdom continues to exist and that the Hawaiian Council of Regency representing the Hawaiian Kingdom is legally responsible under international law for the protection of Hawaiian subjects including the claimant. In other words, the Hawaiian Kingdom was legally obligated to protect

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

Larsen from the United States' unlawful imposition over him of its municipal laws through its political subdivision, the State of Hawaii. As a result of this responsibility, Larsen submitted that the Hawaiian Council of Regency should be liable for any international law violations that the United States had committed against him. This was a tort issue, a liability issue. We did not violate his rights. The court in the Third Circuit did, the District Court. He was determining whether or not we're liable for those violations. And that's what came into play called the indispensable third party, which was a burden of Lance Larsen's counsel, not the Hawaiian government. What came out of these proceedings, phase one was completed. The Permanent Court verified the Hawaiian Kingdom to be an independent state and a subject of international law. You can't change that. They just verified it, right. They also verified that the Council of Regency represented the Hawaiian Kingdom in the proceedings. So, it's actually a government without effectiveness, and that's what a government of an occupied state is. So, it's almost like a whistle-blower. It speaks to the issues just as the Belgian Council of Regency was speaking to the Nazi violations in Belgium but the Belgian Council of Regency is in London. The only difference is we're in Hawaii. We're not outside of Hawaii. But we're operating under the same rules that apply to other countries when they're occupied. When we were up at that hearing, on the last day of the hearing, we were contacted by an ambassador from Rwanda, who's attending another hearing at the International Court of Justice, which is also housed in the same Peace Palace, where the Permanent Court is. And his name is Dr. Bihozagara. He said he had information for us. We needed to urgently meet him. So, after the third day of the hearing, there are three days of hearing, after the third day, we caught a train down to Brussels, Belgium. And in that meeting, Dr. Bihozagara stated to us that his government has reviewed all the records, pleadings, and transcripts of the case, and said it is clear Hawaii is occupied, and this cannot be tolerated. And that he said Rwanda understands what happens when international law is violated but the international community does not step in until it's too late. He's making reference to genocide, over 800,000 people died in Rwanda. In fact, Dr. Bihozagara, that man right there is a Tutsi survivor. He survived the genocide. Well, after a short meeting with my team, we sat back down in front of the ambassador and I conveyed to him sincere gratitude but we cannot accept his offer at this time. Our people back home have no clue of what's going on. It's like just us, like six to eight people talking for a country and everyone back home has no idea what's happening because of denationalization. We had to address that. So, we thanked him, and the plan was we're going to engage. Well, I go back to my military training. Because we're occupied, we got to use US Army Field Manual 27-10. It applies during occupations. In particular, remedies for violation of international law. Violations of international law are war crimes. Remedies; in the event of violation of the law of war, the injured party may legally resort to remedial action of the following types, we're going to select this one, publication of the facts with the view to influencing public opinion against the offending belligerent. We're now going to engage education, start getting the facts out through research, apply analytical rigor, nothing racial, nothing cultural, nothing to do with language, straight-up exposure. So, phase two initiated. In line with its strategic plan, the council agreed that since I already had a bachelor's degree in...from 1987 in sociology, I knew exactly what was being taught at the University of Hawaii. It's wrong, regarding Hawaii's history. I'm going to engage it.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

Remember that quote by Donald Wheal, a raving lunatic? What is lunatic is about to engage the academy. I received my master's specializing in international relations in 2004, and my Ph.D. in 2008, with direct focus on the continuity of the Hawaiian Kingdom and providing a solution, how do you fix this problem. In fact, my doctoral committee asked me, Keanu, how do you fix the problem? I said I couldn't even get you to ask how you fix the problem until you could see we have a problem. They had to read my whole dissertation. Well, how you fix the problem? First business of order, education, education, education, education. Don't politicize it, yeah. Don't stand up and make like I know everything. If you don't know, do the research. Now, this education is also going to span across the world because the Hawaiian Kingdom by 1893 had over 90 embassies and consulates. That means the records that we have here, they should have records in Belgium, in Italy, in Germany, and they have 'em. In fact, doctoral students coming out of Italy, London, they're all getting into this 'cause they have access to their own records, also in their own language. That confirms everything I just shared with you. So, academics...academic publications, law review, peer review, master's thesis, doctoral dissertations, a plethora has boomed after I broke the ceiling, and boy, they tried to stop me from breaking that ceiling. They tried. But I'm not into arguing. I'm just into defending the research, which led to all these publications, both national, local, and international. And this is just the tip of the iceberg, otherwise I will just keep playing copies of publications. Now, the book *Ua Mau Ke Ea--Keani*, can I borrow this?--this book *Ua Mau Ke Ea* is actually my doctoral dissertation, watered down for human consumption so it's not so legally dense, but it covers Hawaii's history from 18th Century, Kamehameha I, all the way 'til today. That book is now the new history book at the Kamehameha Schools. And this next semester, I'm actually teaching a graduate course and a professional development for teachers on all three campuses. This is being engaged in the college, in the high schools, in the elementary. They're teaching history. They're not politically activating anything. They're just teaching the history. So, as a result, correct revisionist history. Here's a book published in 1998, written by Tom Coffman, the so-called anniversary of annexation. Remember ceded lands? There was no ceded lands. Tom Coffman in 1898...1998, came out with this subtitle *Nation Within: The Story of America's Annexation of the Nation of Hawaii*. Well, with all due respect, that's wrong. Hawaii was not annexed, it was occupied. Well, in 2009, Tom Coffman, a very well-known historian here in Hawaii, came out with this revised edition, *The History of the American Occupation of Hawaii*. And Tom Coffman is an American, a former reporter for I believe the *Star Bulletin*. Why did he make that change? Well, a note on the second edition--and by the way, Duke University just republished the book in 2016, and I was asked to write a book review for the *Hawaiian Journal of History* about his book--so, he says I'm compelled to add that the continued relevance of this book reflects a far-reaching political, moral, and intellectual failure of the United States to recognize and deal with its takeover of Hawaii. In the book's subtitle, the word annexation has been replaced by the word occupation referring to America's occupation of Hawaii. Where annexation connotes or means legality by mutual agreement called a treaty, the act was not mutual and therefore not legal. Since by definition of international law, there was no annexation, we are then left with the word occupation. In making this change, I have embraced the logical conclusion of my research into the events of 1893 to 1898 in Honolulu and Washington. I am prompted

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

to take this step. Now, let me preface this first. Tom was very much aware of the research taking place at the University of Hawaii, and he was reading these publications. That's what affected him. In fact, he called me and said he's going to make the change on the subtitle. And you know what his reason was why he did it 'cause he said he knew that title was wrong. He said he told me he did it because he was an American, and it was hard for him to accept this, that's what he said. And he said if it wasn't for the academics at the university to do what they are doing, that's the reason why he needed to come out. And I thanked him, I said, Tom, mahalo, I appreciate that. So, it goes on to say, I am prompted to take this step by a growing body of historical work by a new generation of Native Hawaiian scholars. Dr. Keanu Sai writes--so, he's taking a quote from one of my law journal articles published out of San Francisco School of Law--the challenge for the fields of political science, history, and law is to distinguish between the rule of law and the politics of power. He ends it with, in the history of Hawaii, the might of the United States does not make it right. What you folks are starting to see as these next slides will show is the impact that the education is having in decision-making, and that's why education is important, not to tell people what decisions to make but to be sure that you are informed in that decision-making process. Because international law now brings in liability, accountability, and address. Well, this education also prompted the Hawaii State Teacher's Association, which is an affiliate member of the National Education, which is the largest union of American schoolteachers across the United States, over 3 million members, yeah. Well, the Hawaii State Teachers Association, who by the way, these teachers are coming through the University of Hawaii and they're taking classes, and they are being made aware of Hawaii's occupation. They began to teach it in their classes. Well, that prompted the Hawaii State Teachers Association to introduce New Business Item 37, and this is from the HSTA's Facebook, the NEA will publish an article that documents the illegal overthrow of the Hawaiian Monarch in 1893, the prolonged illegal occupation of the United States in the Hawaiian Kingdom, and the harmful effects that the occupation has had on the Hawaiian people, and resources of the land. That actually passed in 2017 on July 4th in Boston, Massachusetts. Boston, Massachusetts, July 4th, this gets passed. So, the person up there to the far right if...is Amy Perruso, she's also an elected representative. She was one of the delegates. She's also the secretary/treasurer of HSTA, but she's a history teacher at Mililani. She has a Ph.D. in Political Science. She's a friend of mine. She teaches this stuff. They use the book *Ua Mau Ke Ea*. She gets other teachers to make sure they update their resources with this information. So, I called her, I said, Amy, first of all, congratulations, job well done. Second question, how the bleep did you get them to pass that resolution? She said, Keanu, it was a lot simpler than we thought. We just stuck to the facts and it's just what it is. And that shows how you present information that is not political but informing, and it passed. So, when they came back, the delegates asked me if I could actually write those three articles to be published by the NEA, the National Education Association. So, the first one that came out, April 2, 2018, *The Illegal Overthrow of the Hawaiian Kingdom Government*. You noticed I've made the point here. I did not stop the illegal overthrow of the Hawaiian Kingdom. You guys see that, the government, 'cause it was a government that was overthrown, not the country. Then that was followed up by The U.S. Occupation of the Hawaiian Kingdom. And then the final article, *The Impact of the U.S. Occupation*

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

on the Hawaiian Kingdom [sic]. In that article, I addressed how academics began to address these hard issues and began to publish. And if you notice, the National Education Association put it under this category, this last one called Educators in Action. That speaks to the intent of what the article was supposed to...was conveying but also acknowledging the importance of education, education. So, this is impact from outside. Now, we're going to get impact within government, right. And government is made up of our family and friends, right. My son is a police officer for the Honolulu Police Department, right. So, we're all part of it. I'm a faculty member at the University of Hawaii, getting paid by the State of Hawaii. We're all in this web. But what about the enforcement agencies, how are they addressing this? Well, my doctoral dissertation I actually had an outside reader. I wanted somebody outside of the academy, and his name was Judge Walter Heen, Intermediate Court of Appeals. He was the author of the opinion in State of Hawaii versus Lorenzo, which was in my doctoral dissertation. So, in State of Hawaii versus Lorenzo, the Intermediate Court of Appeals addressed the trial court's lack of jurisdiction due to the illegal overthrow of the Hawaiian Kingdom government. Walter Heen was the one who authored the opinion of the three judges. He stated "that the illegal overthrow leaves open the question whether the present governance system should be recognized," that's the ICA in light of this information. Nevertheless, he stated on behalf of the ICA, the Intermediate Court of Appeals, that it was required that defendants must "present evidence that the Kingdom exists as a state in accordance with recognized attributes of a state's sovereign nature." Back then in 1994, nobody distinguished between a state and the government. Judge Walter Heen now knew the difference 'cause he was an outside reader on my doctoral dissertation. Now, Judge Heen is also a family friend, right. And that State of Hawaii versus Lorenzo has been used as a precedent case in all cases that come before the courts in Hawaii saying defendants have not met that burden. Actually, in a few...in a lot of cases, they have. But before we embarked on that, 2009, one year after my dissertation, I had a lunch meeting with Judge Heen at Zippy's. That's where people go when they're retired, Kahala. So, the first thing I asked Judge Heen, Judge Heen, in your decision as a member of the International [sic] Court of Appeals in State v. Lorenzo, if Kali Watson who was the attorney for Lorenzo in the...on the appeals case provided you a copy of my doctoral dissertation, which provides evidence that the Kingdom exists as a state, what would you have done? He said, now I know the difference, I would have actually granted the appeal and dismiss the case, order its dismissal. I said that's what I thought. See we're just talking law. We're not talking politics. Evidence was met. So, then I said well, you know, Judge Heen, you opened the door for defendants to present evidence, not present evidence that they are king and queens, evidence that the state still exists. That's a legal and factual situation, not an ethnic question. So, I said, I'm going to start working with some attorneys, and basically these attorneys are just going to be good attorneys. You, State v. Lorenzo, and provide the evidence. Judge Heen tells me, oh, that's going to get interesting because you're dealing now with reality. This is where the rubber hits the road, right? Well, in 2012, when Attorney Dexter Kaiama provided irrefutable evidence according to Judge Heen's requirements, Judge Hara stated, and this is illuminating, he stated on the record, no, Mr. Kaiama, I think you failed. In my mind, what you are asking the court to do is to commit suicide. Because once I adopt your argument, I have no jurisdiction over anything. Not only these kinds of cases where

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

you may claim either being a citizen of the Kingdom, but jurisdiction of the courts evaporate. All of the courts across the State, from the Supreme Court down, we have no Judiciary. See that is impact. That's called rubber-just-hit-the-road. If I was Judge Hara, I wouldn't have said that 'cause I was on an open mic, that's on the transcript. And the person who's a defendant was not a Native Hawaiian, was a Japanese woman fighting to protect her house. The only Hawaiian in there was Dexter Kaiama, the attorney, just talking the law. What you start to see is a constant denial. What you're seeing is a violation of the law of occupation, right. And then the following year in 2013, the United States...the Hawaii Supreme Court, they're trying to contain this. So, in State of Hawaii versus Kaulia, they stated, whatever may be said regarding the lawfulness of its origins, the State of Hawaii is now a lawful government. That is based on no evidence. That is what is called a fiat, a proclamation. You don't...you're not supposed to do that in a court of law especially in light of State v. Lorenzo, that says defendants have to provide evidence. But can you see it's coming to a head and people are getting hurt for following the law. Remember this, Perfect Title, 1990s, for some of you who remember this, we're exposing that land titles were no good in Hawaii because of 1893. In 1997, the *Star Bulletin* said Perfect Title has created chaos in Hawaii's real estate industry with its claim that current land titles are no good. The company reaches those conclusions using 19th Century Hawaiian Kingdom law, which it says is still in effect, and by searching properties dating to the 1840s. Now, when people read that today, that makes sense. Imagine reading that in 1997, lunatic. So, what you basically have is I did speak about title insurance. That's what was brought up back then where people are actually protected by their own contracts. So, what people don't know is that before the bank loans you the money and accepts your mortgage, you have to go to escrow to buy title insurance called a lender's policy. It's Section 1100, 1109 on the HUD-1 statement. It's all there. You pay a premium. But people didn't know what that was. And that title insurance insures the accuracy of the title search that this is a valid mortgage. It's a valid collateral. It's a security instrument. And if it's found that the title report is inaccurate, the insurance policy pays off the loan. That's how it works. So, when people were looking into these issues, they were looking at something that they have called a contract. They needed to show evidence of a defect, file a claim, have the bank file a claim with the insurance company, and let the insurance company refute this evidence. But nobody filed a claim. What they did was they attacked. So, this is how it works, mortgage promissory note, mortgage is invalid because title stopped in 1893. It's like me trying to mortgage Kahoolawe tomorrow to First American Bank when I don't have any interest to Kahoolawe. The title insurance policy pays it off, the loan. Well, instead of addressing this, which affects private people like all of you, what happens you attack the messenger. Perfect Title back in '97 got raided. As part of a State criminal investigation, Honolulu Police Department...Honolulu Police yesterday morning arrested Donald Lewis, David Keanu Sai, and a company secretary for investigation of theft, racketeering, and tax evasion, outrageous, smear. See that's what happens when you speak the truth, you get hit. But I was just speaking the truth. And now I got a Ph.D. to prove it. Now, this information is also going to have a profounding effect in Switzerland, Geneva. Just last year, United Nations independent expert, Dr. Alfred de Zayas, sent a letter to all the judges of the State of Hawaii, this was all on his own, it's not from us. He stated, as a professor of international law, the

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

former Secretary of the UN Human Rights Committee, and other qualifications, I have come to understand--so, even he got educated on Hawaii's status--I have come to understand that the lawful political status of the Hawaiian Islands is that of a sovereign nation-state in continuity; but a nation-state that is under a strange form of occupation by the United States resulting from an illegal military occupation and a fraudulent annexation. As such, international laws, the Hague and Geneva Conventions, require that governance and legal matters within the occupied territory of the Hawaiian Islands must be administered by the application of the laws of the occupied state, in this case, the Hawaiian Kingdom, not the domestic laws of the occupier, the United States. That letter is now making sense for people who have been educated throughout Hawaii. But if that letter came to Hawaii in 1997, it wouldn't make any sense. Now, when you violate the Hague and Geneva Conventions as officers in the Army, we knew what that was, those are war crimes, in particular, grave breaches of the Geneva Convention Article 147. Well, according to Amnesty International, the definition of war crimes are crimes that violate the laws or customs of war defined by the Geneva and Hague Convention. Did you know also in the United States Federal law, Title 18, Section 2441, Federal Criminal Statute, grave breaches of the Geneva Convention are war crimes, and certain provisions of the Hague Convention. So, that's in the national law system of the United States. What you also have is an International Committee of the Red Cross, an important organization that takes care of civilians during occupations. The International Committee of the Red Cross is an independent neutral organization ensuring humanitarian protection and assistance for victims of armed conflict. It takes action in response to emergencies and at the same time promotes respect for international humanitarian law, which is the law of occupation, and its implementation in national law. The 1949 Geneva Convention Number IV, confers on the ICRC a specific mandate to act in the event of international armed conflict. People are now reaching out to the ICRC to step in as people are getting educated on this. Because again, I want people to know that when I did my doctoral dissertation, it wasn't just to expose the occupation. Okay. It was to provide a solution to remedy. How do you fix this problem? I'm not into exacerbating a big problem but I'm into dealing with the problem. And there's a difference between those who respond to crisis as opposed to those who react to crisis. We have to respond to crisis, not react.

. . .BEGIN VIDEO PRESENTATION. . .

UNIDENTIFIED SPEAKER: Also happening today, Hawaii County Councilmember Jen Ruggles will hold a public meeting on her decision not to vote on legislation until she's assured she's not committing war crimes. Last month, Ruggles refused to vote after receiving a copy of a memo from a United Nations independent expert calling Hawaii a sovereign nation state under occupation by the United States. Ruggles has asked the county council for clarification on criminal liability under US and international law. The meeting starts at 6:00 p.m. at the Keaau Community Center.

. . .END OF VIDEO PRESENTATION. . .

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: So, you can see how this information had an effect on a councilmember on Hawaii Island who's not even Native Hawaiian, yeah. She's haole. She's Caucasian. She's an American, a very proud American but also an American who believes in the rule of law. And what she wanted to do was to get these issues addressed from corporation counsel and she wasn't getting it. In fact, it was so complex she had to retain an attorney to be able to explain all of this. And that started again not responding to a crisis but reacting to a crisis, and they started to badmouth her, yeah. That's the reaction, attack, attack, attack. In fact, they tried to say that she was from a sovereignty movement. She had nothing to do with a sovereignty movement, right. But that's how real this issue is, it's coming to a head. It also...that situation also caught the attention of what is called the National Lawyers Guild because the attorney for Jennifer Ruggles was a Guild member. Now the National Lawyers Guild was formed in 1937 as an alternative association to the American Bar Association. So, the National Lawyers Guild and the American Bar Association are at the same level. One is more left, and the other more right, yeah. Okay. But this is a large association across the United States of attorneys. They caught wind of Councilmember Ruggles' situation through her attorney. After inquiring into the information and receiving the paperwork, they actually submitted a proposal to Ruggles' attorney stating that would he entertain the notion or the...an opportunity for the National Lawyers Guild to send an investigative delegation to investigate war crimes coming from the United States. Well, before that could be accepted by this attorney, they wanted to...he wanted to make sure that the National Lawyers Guild understands the situation. It's not a political situation, it's a legal situation. And that's what prompted the International Committee of the National Lawyers Guild to form a subcommittee called the Hawaiian Kingdom Subcommittee. They're now engaging this information very, very seriously. Okay. The Hawaiian Kingdom subcommittee provides legal support to the movement demanding that the US as the occupier comply with international humanitarian and human rights law within Hawaiian Kingdom territory, the occupied. This support includes organizing delegations and working with the United Nations, the International Committee of the Red Cross, and nongovernment organizations addressing US violations of international law and the rights of Hawaiian nationals and other protected persons. That's a serious move taken by the National Lawyers Guild. In fact, I'm attending a conference in Fresno where I'll be giving a presentation on the Hawaiian Kingdom's existence using legality, yeah, I got to speak their language. So, coming to a close here, I had a few more slides, and we'll open up for question and answers, and I hope I'm not scaring anybody but I'm hoping that I'm intriguing you to ask questions because it's important to ask the right question. 'Cause if you keep asking the wrong question, you don't get the answers. And asking the right question is sometimes the hardest question to ask. So, just keep that in mind. So, how do we fix this problem? Basically, every law that's been in Hawaii since actually 1887, that's when the insurgency started, July 6th. Since then, there has been no lawful legislature in Hawaii. That means Hawaiian law are the laws that existed previous to 1887. Last session of the Hawaiian Legislature was 1886. So, you got the civil code, yeah, you got the penal code, you got common law decisions, you got proclamations by the monarch, executive monarch, and so forth. So, we're basically living in an illegality. This was one of the questions, fundamental questions, my committee was

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

asking, how do you fix this? Within the law of occupation, there is a principle that is applied called necessity. It's actually a legal principle, necessity, which they also say is the mother of all inventions. How do you fix this problem? Well, the source of decision-making would have to come from a representative of the Hawaiian Kingdom as a state, which would be the Council of Regency already recognized by the Permanent Court of Arbitration. They could issue a proclamation. So, on October 10, 2014, the Council of Regency, by proclamation announced all laws that have emanated from an unlawful legislature since the insurrection began on July 6, 1887 to the present, to include United States legislation, shall be the provisional laws of the realm subject to ratification by the legislative assembly of the Hawaiian Kingdom once assembled, with the express proviso that these provisional laws do not run contrary to the express, reason, and spirit of the laws of the Hawaiian Kingdom prior to July 6, 1887, the international laws of occupation, and international humanitarian law. And if it be the case, they shall be regarded as invalid and void. I had three meetings with Mike McCartney a few years ago, Chief of Staff of Governor Ige, and I covered all these with him. I had three meetings, hour-and-a-half each. I provided him a report on transforming the State of Hawaii into a military government to make everything legal. There's a process to actually do that. The report I provided him. Nothing came out of it. I guess he had bad advice, whoever he asked about it. And I would caution people when you ask for people for advice, make sure they have a background in the area of that particular question. You don't want to ask a pediatrician about neurosurgery, right, even though they're both doctors. Make sure you ask the right person or persons or entities that can inform you but also stand behind their decision, right? Make that opinion qualified. Hold them to account is the key. But nevertheless, Mike chose to attack and he started telling people that I guess a friend of mine told me he was talking really bad about me. I was like where have I ever talk bad about anybody? And I only hear about people talking bad about me behind my back, never in front of me. If anybody like Mike will maybe take my class at the University of Hawaii, he would do well if he did his research and wrote his good papers but I had no problem, and I would have no problem failing people 'cause I give Fs. So, we're...what we're doing here at the University, it's not a game. It's real. It has consequences. But it's based upon research, analytical rigor, and just stick to the facts, that's the first step, not pick a side. Don't pick a side. Don't pick a side. So, under Field Manual 27-10, this is what was warranted. And it was also recommended by the Permanent Court of Arbitration in their award in 2001. It said that because of the indispensable third-party rule that applies to arbitration and litigation, fact-finding or commission of inquiry wouldn't. A fact-finding commission of inquiry can actually look into an issue and then make a report, sort of like Robert Mueller's report, right, provide a report, recommendations, but it's still gotta be followed up. Well, under the remedies of international law for violations, it says specifically at the request of a party to the conflict, an inquiry shall be instituted in a manner to be decided between the interested parties concerning any alleged violations of the convention. On April 17th, last month, a commission of inquiry was formed. The Council of Regency formed it. The purpose of the royal commission of inquiry shall be to investigate the consequences of the United States' belligerent occupation including with regard to international law, humanitarian law, and human rights, and the allegations of war crimes committed in that context. The geographical scope and time span of the

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

investigation will be sufficiently broad and be determined by the head of the royal commission. I'm actually appointed as the head of the commission. We already have two members of the commission from Europe, one specializes in international humanitarian law, genocide, and war crimes. He's from London. Another one is from Italy, specializes in human rights. We're moving in and getting more professors and academics and jurist involved specializing in self-determination. What about the rights of migration, people that came to Hawaii not knowing Hawaii is occupied? What rights do they have? You know, this has to be very comprehensive. It has to be very thematic and broad to be able to provide recommendations at the international level as well as at the local level. So, for the first time, this commission of inquiry is going to be huge, broad, task-oriented, unbiased, professional. That's all we have to engage attacks. We can only speak to professionalism. We can only speak to qualifications. We can only speak to demeanor and having a reputation above reproach. That's what we're going through right now, right? And I appreciate Madam Chairman for giving me this opportunity to share with you folks what's actually going on out there. Don't think this is sovereignty. Don't assume that what I'm talking about is political. There are ramifications. And the first thing to do is to pause, reassess. That's really the first step, right. So, in the Article 3, the composition of the royal commission shall be decided by the head and shall be comprised of recognized experts in various fields. What we're dealing with is mental elements of war crimes, and that's what this jurist is doing in London, taking a look at whether or not a person who has been denationalized in believing this is America can claim that as a defense for not committing a war crime, sort of like claiming superior orders. That's how real this is getting. So, mental elements. And, you know, what he brought up in my conversation with him, which I didn't know, when I asked him can denationalization be used as a defense even though you have victims, he said, not really. Because he said that collaborators were prosecuted for war crimes and they were called Jewish kapos. Jewish kapos were actually Jewish who were directed to be policemen in the internment camps against other Jews. Israel prosecuted Jewish kapos. So, it's not limited to a particular race, crimes are applied to particular action, actus reus and mens rea. So, mental elements of war crimes, there is no requirement for a legal evaluation by the perpetrator as to existence of an occupation. Your defense can say well, I didn't have a legal opinion that said Hawaii is occupied. There's no requirement. There is no requirement for a perpetrator to be aware of the facts establishing the existence of occupation. So, you don't have to be aware of the existence of facts. There is only one requirement, awareness of the factual circumstances that established the existence of the occupation, the circumstances. Under this requirement, the perpetrator only needs to show the connection between his or her acts and the existence of the occupation. So, if the law of occupation says this and you are aware of that, and you did this, you met the element of awareness. You can be held liable. That's what is being looked at by this juris in London for Hawaii's situation 'cause it's very unique, a 100 years of occupation and brainwashing, where the victims have now become some of the perpetrators. So, types of war crimes that are going to be looked at in these issues based upon international law, denationalization, pillaging, unlawful appropriation of property, depriving a protected person of a fair and regular trial, destruction of property, unlawful confinement of a protected person, removing protected persons from the country. You

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

know, when the prisoners are forced out, did you know that's actually a violation of the Geneva Convention? But again, the facts of the circumstances, so whether or not the warden knew Hawaii was occupied and knew that his action to send them would violate it would constitute culpability. I don't know if he knows, right? But you see what education is doing? People can't deny it anymore. They're starting to know. And also involuntary conscription in the US Armed Forces. I joined the military. I volunteered. That's not a war crime. But the drafts were. So, all those Hawaiian subjects and protected persons in Hawaii were drafted during World War I, World War II, Korea and Vietnam, those are war crimes. That's exactly what the Germans were doing during World War II, and they were prosecuted after. So, these are very, very serious issues, and this is in line with the ceded land issue. 'Cause I think what I was able to show you here, there's no such thing as ceded lands 'cause nothing was ceded. There's no treaty. You got ceased lands but not ceded landed. And there is a way to administer lands, another treaty. So, really it is how to deal with the problem and how to move forward as opposed to saying I quit, everything is over, it's done. If anything, everyone here and I shared this with Madam Chair, everybody here has a responsibility. Everybody has a responsibility to do their own due diligence and to look at how do we approach this very complex situation. And let's make sure that we bring in qualified people. I'm not saying it's just me but bring in qualified people who can advise you on certain issues, and don't limit it to people from Hawaii, yeah. Bring in people from all over the world who have the reputation of knowing. I know a lot of these people because of my work. It doesn't only have to be me but we all speak the same language. It's kind of good to have somebody from let's say Italy explaining it, yeah. Same theory, just different place, right? So, for information that you folks may want to follow up with first of all, you folks have a handout of the documents. You have my book, Ua Mau Ke Ea, right. Good reading for you folks. But also you may want to visit that website. It's a blog. And also if you have any questions, that's my e-mail at the University of Hawaii. So, I think I did my one-and-a-half hours, yeah, on time.

CHAIR PALTIN: Thank you, Dr. Sai.

MR. SAI: Thank you, Madam Chair. So, did you want questions or...

CHAIR PALTIN: Yeah, as we only have about an hour left, if Members need to use the bathroom or anything, you can use it. But as this was intended to be an educational workshop, I wanted to also open it up with no objection to questions from the departments if they had any questions of you, and if that's okay with the body?

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Thank you. So, does anyone from the department, if you want to ask questions, you can come up to the...

UNIDENTIFIED SPEAKER: Police Department.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

CHAIR PALTIN: If the Police Department...we still have the Parks, Planning. Okay. Just indicate if you do have a question as time goes on from the floor. If my Vice-Chair had any questions?

VICE-CHAIR SINENCI: Thank you, Chair. And thank you, Dr. Sai, for being here and doing this presentation. As a former teacher, I've also used the book Ua Mau Ke Ea. So --

MR. SAI: Right on.

VICE-CHAIR SINENCI: --mahalo. But I had the one with the CD in it so it was much easier. Thank you.

MR. SAI: Did you have the PowerPoints and sample test and everything?

VICE-CHAIR SINENCI: I did.

MR. SAI: Okay. Good.

VICE-CHAIR SINENCI: But watching your presentation, I just had one question about the, and it's just a clarification, you said something about a joint resolution, and can you explain what a joint resolution at...with the US Constitution? And I know that it was just for their municipal boundaries. So, if you can just expound on joint resolution.

MR. SAI: Okay. Perfect. So, within the United States legislative process, right, they can enact basically two types of laws, joint resolutions, which are agreements between the House and Senate, and then signed into law by the President; or a bill that becomes an act. Okay. Both are municipal laws. Now, a senate or a house may pass a resolution on its own, and all it is is a position statement, yeah, taking a position on something. But if you take a joint resolution, the difference between a joint resolution as a law and a bill that becomes an act is that the act is enforceable. A joint resolution is not enforceable. It's still almost like a position statement like an organization passes a resolution, we recognize this day as Kamehameha Day, right? If you violate that, there's no execution of that. But a bill that becomes an act is carried out. So, like the Statehood Act or the Organic Act, yeah, it's something to implement. So, when they passed the joint resolution annexing Hawaii, number one, it's a position statement by both House and Senate; and number two, it is a municipal law limited to US territory, yeah.

VICE-CHAIR SINENCI: Thank you --

MR. SAI: Okay.

VICE-CHAIR SINENCI: --for that.

CHAIR PALTIN: Councilmember Lee?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

COUNCILMEMBER LEE: Thank you, Madam Chair. Good...good morning, Dr. Sai. Thank you for coming.

MR. SAI: No, thank you.

COUNCILMEMBER LEE: I appreciate your presentation. I have a couple of basic questions.

MR. SAI: Sure.

COUNCILMEMBER LEE: Now, this issue of, I can't think of a better word, the sovereignty, yeah, has been discussed for...since the '70s... '60s and '70s. I remember my parents talking about it, my grandparents. But, and I'm also part-Hawaiian, but for some reason, the Hawaiian community has remained fractured, and there has been difficulty becoming united and organized. Now, if everybody feels strongly about the issue of sovereignty, and I...sorry I'm using the wrong word, but why can't people get together and agree so that you can have a legitimate organization whether there is that legislative assembly or whatever you call it to start to move the ball forward?

MR. SAI: Good question. Now, there's a difference between what is called the political process and a legal process. Okay. So, a political process is movement. It's compromise. It's coming together. It's trying to accomplish something that isn't here. Okay. That's a political process, right, based on ideology, ideas. I don't use that in the negative way but ideas to pursue, right, addressing inequalities. Okay. Now, what I'm addressing here is a legal process, a legal process that starts off with terms, terminology and definitions, theoretical framework or legal theory that applies to certain issues. So, when the sovereignty movement began, they didn't have this information that you folks have right now. It was operating on certain assumptions that Hawaii is a part of the United States, that Native Hawaiians are suffering disparity which is true, and that they have similar rights as other Native Americans; in Aotearoa, Maoris, very much put it in a colonial context that Hawaii was taken over and a native group was subjugated. I'm not denying that. But out of that process, sovereignty was an aspiration, not a reality. And we start off with the definition of sovereignty. So, according to Black's Law Dictionary, sovereignty, all it means is supreme law over the land to the exclusion of other supreme laws over other land. That's sovereignty. So, sovereignty and independence are synonymous, right? So, United States has sovereignty and independence over its territory. That's not subject to any people's belief but that is actually subject...they are subject to the law of that reality. Okay. So, when the...when groups have been addressing this, they've been drawing information, and I actually covered that in my...it's in chapter 11 in the book, 'cause I had to address the sovereignty movement. So, they're operating more on a...it...they say that the beginning of the sovereignty movement, which is the Hawaiian Renaissance was Holt, yeah, John Dominis Holt, in his book *Being Hawaiian*, because he was addressing being proud. And that started Hawaiian pride, started music like Gabby Pahinui, slack key, Sunday Manoa. And then you have Protect Kahoolawe Ohana that moved it into the political realm, and they have George Helm, Walter Ritte, PKO, right? Then it branched into the sovereignty movement. So, it all operated on information that was assumptions. When we now look at Hawaii's history, the term

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

sovereignty applies to a country not a people, and that's called the sovereign state, not the sovereign people. And that the Hawaiian Kingdom as a sovereign entity under occupation, there are these certain rules that apply. And that's what you folks saw in this presentation. That's why this has nothing to do with the sovereignty movement or political movement. This has everything to do with a legal movement of understanding of what's going on, right. So, it's not a matter of getting people together to believe anything but rather getting people to be educated on what's going on for people to make informed decisions in whatever capacity they're in, right. So, that's where we're at right now, right.

COUNCILMEMBER LEE: Thank you. To me, I think it's a really fine line because a lot of people have strong feelings on both sides of the issue. But, okay, getting back to just the legal side of this matter, what happens before you initiate and empanel a legitimate legislative assembly to review all the laws, et cetera? How do we operate in the meantime?

MR. SAI: Right. No, no, I got your point.

COUNCILMEMBER LEE: Yeah.

MR. SAI: Excellent point, because Mike McCartney was asking those same questions in my meeting with him. Okay. First of all, during the law of...under the law of occupation called International Humanitarian Law, an occupied state does not have a legislative body. They don't. 'Cause you can't have elections during occupation because it's the occupier that is responsible for administering the laws of the occupied state according to the Hague and Geneva Conventions, not the occupied state. Okay. That's number one. That's just the rule, right. Now, when the occupation comes to an end is when that legislative assembly will be reconvened. And that's all inherent in the Hague and Geneva Conventions. All occupations are supposed to be provisional. The only reason why this was allowed to last over 126 years right now because nobody knew anything. We're brainwashed to believing something that's not true. That's what allowed it to continue, which only compounded the problem. That's where we are, we're dealing with a very complex problem. So, that legislature to be reconvened will have to be done when the occupation comes to an end. And those would have to be comprised of Hawaiian subjects. Now, the question is who are Hawaiian subjects, right? 'Cause the term Hawaiian subject...to be a Hawaiian subject in the Kingdom era, and I cover this in my dissertation, you can acquire it three ways. One, you solely, which is natural-born. Say, so an example of somebody natural-born in the Hawaiian Kingdom that became a Hawaiian subject was Sanford Dole. So, Sanford Dole's mother and father were American missionaries but Sanford Dole was born in Hawaii in the 1930s. He became a Hawaiian subject by birth but American by parentage. So, he is a dual citizen. He later became a judge and an attorney in the Hawaiian Kingdom. That's called nationality. The second way of acquiring Hawaiian citizenship under Hawaiian Kingdom law is jus sanguinis, which is by parentage. So, if two Hawaiian parents travel to America and they give birth to a child in California in 1881, that child is an American by birth, natural-born, but a Hawaiian by parentage. It's dual citizen. And the third way is naturalization. You can apply to be naturalized under Hawaiian law

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

with a five-year residency. And there's also another way called denizen, and that's a British common law type of granting of nationality. Now, the law of occupation is set up to preserve the status...protect the status quo of the occupied state. That's the purpose of the law of occupation. So, you can't change it. And then the occupation will eventually come to an end. So, as part of the law of the occupied...the law that protects the status quo of the occupied state, international law prevents acquisition of Hawaiian citizenship or citizenship of an occupied state by birth or by naturalization or denization. You can only acquire citizenship in an occupied state by being a direct descendant of a Hawaiian subject who was a Hawaiian subject before the occupation. And that would be before January 17, 1893, irrespective of race, color, creed, or gender, yeah. Now, that...that situation there, the Latvian states, the Baltic states, Latvia, Lithuania, and Estonia in 1991 had to deal with that because they were claiming Latvians, well, Russians and Ukrainians were claiming to be Latvians because they were born in Latvia before Stalin's invasion in 1941. That means they acquired it through natural-born. Latvia prevented them, says no, and they based it on race. They ended up violating the human rights of these Latvians who were Russian and Ukrainian. And they had to give reports to the Human Rights Committee on human rights, the European Union [sic] on Human Rights Committee. So, we need to learn from other examples around the world as to what we shouldn't be doing and what path are we on. Because the path that people had been put on are put on on assumptions of I believe this or I think this as opposed to this is the definition of this, and this is the definition of that, where are you? Now, where you want to go from there, that's where informed decision has to be made with education. Because this is a completely different animal than what we're used to. And I'm not trying to make it simple. It is very complex. That's why even more so, people need to step back to make sure that they do their due diligence, to make sure that this is what I think it is. Because if I take a step, could that step now in consequence to the law of occupation be considered a war crime where somebody else is looking at it, not me. So, that's what we need to be careful of, and that's what prompted Jennifer Ruggles from the Hawaii County Council to do what she did, to ask those hard questions, and it led to everything else. But I wanna keep in mind here that we're all part of this situation. I'm not talking to insurgents over here, I'm talking to aunties and uncles and cousins and fellow teachers. This is not telling people you're wrong. It's just it's coming down. And this is what happens when people start to get educated, there's consequences and there's decision-making, and hard decisions, right.

VICE-CHAIR KING: Chair?

MR. SAI: So, hope I was able to elaborate on that a bit.

COUNCILMEMBER LEE: Yes, thank you but I did need clarification on how do you go about empanelling this legislative assembly?

MR. SAI: That's going to happen after the occupation comes to an end. That's all part of the Treaty of Peace. That...okay, so --

COUNCILMEMBER LEE: Who --

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: --the Treaty of...

COUNCILMEMBER LEE: --chooses those people? Do you elect them or what?

MR. SAI: Yeah, they have to be elected. Now, before they get elected, you have to do a registration of the citizenry. And that's all under Hawaiian Kingdom law. The gubernatorial districts and everything, it's all from the Kingdom era. In fact, what people don't realize is that the State of Hawaii infrastructure is actually from the Kingdom era. It came from the Kingdom era. All they changed was the queen and her cabinet, kept everybody in place, and forced them to sign oaths of allegiance to the new regime. And that's where that song Kaulana Na Pua came from, yeah, the Royal Hawaiian Band refused to sign that oath...that...to sign that oath of allegiance, which ended up forcing them to be terminated, they didn't have a job. And one of the lyrics in that song, which is in Hawaiian, but in English it says, do not sign the paper of the enemy with its sin of annexation and loss of civil rights. So, the system we have today is actually the Hawaiian Kingdom system. What we have today, we just got to revamp it. That's what I have in my dissertation. That's what I explained to my doctoral committee. It's not as complicated as we think it is, but it begins with education so people are speaking the right terminology in order to know how to apply a particular action or actions. But that process is inherent in the law of occupation when it comes to an end. It will naturally take place, yeah.

CHAIR PALTIN: Thank you. Council Chair King?

COUNCILMEMBER KING: Thank you, Chair. Thank you so much for being here, and I really appreciate the approach you have to this. It's very inclusive and educational. And it, it's...it reduces the amount of alarmist, you know, approach. So, my question was kind of following on what Councilmember Lee had asked about the legislative assembly of the Hawaiian Kingdom. Because I was understanding the way you put it on the slide that that was what was going to be necessary to reconcile the laws of the provisional laws of the realm. So, if we're waiting 'til occupation ends to get to that point, what do we do in the meantime? And when you use the word we need to pause, what does that mean to you? I mean what does that mean to us as Councilmembers to our State Legislators? Can you kinda fill in that gap there?

MR. SAI: Sure. Excellent question. So, let me just clarify that proclamation of provisional laws. So, under the law of occupation, it recognizes that an executive branch during occupations has what is called quasi-legislative ability in the absence of a legislature. Okay. So, a...just like what the Belgian Council of Regency did through proclamation, they established provisional laws. But because they're not the legislative branch, and they're doing it under the doctrine of necessity, it is provisional. So, as soon as that proclamation was made, 2014, that's the law. What's going to happen when the occupation comes to an end is when the legislative assembly once convened will need to ratify and make it into statute. That's a matter of Hawaiian domestic law. This is under law of occupation. So, it is a...it was a step to deal with a exigency, right, provisionally, without violating certain rights of people and rights of institutions and

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

still reserving for final ratification to be done by duly constituted legislative assembly. So, we're pretty much just following exactly what other governments-in-exile did during World War II. That's really...that's the game plan, and how do you maintain that? Because the importance of legislating is to provide and afford protection to the people of that particular territory. That's the purpose of it, right? So, in the...in light of the fact that in Belgium there wasn't a legislative body but the Germans there, and the Germans weren't administering Belgian law, that's what prompted the Belgian council to proclaim law. But it would have to be up to the Belgian...to the...I'm sorry, it would have to be up to the Germans at that time, the occupier, to apply those laws. So, the council could proclaim provisionally but it would have to take a State of Hawaii to transform itself into a military government, which can happen by martial law, and I...this is what I explained to Mr. McCartney, there is a way to do that within the framework of the State of Hawaii constitutional system, and then administer those laws that are not inconsistent with Hawaiian Kingdom law. So, an example would be IRS taxes. So, IRS taxes should not be applied in Hawaii to anybody unless you're an American...a citizen that can be taxed from abroad. So, IRS taxes is a municipal law of the United States. Now, Hawaii taxes and County taxes can continue so long as they don't run contrary to Hawaiian Kingdom law. So, these taxes that are currently collected is what pays for the police, it's what pays for the Fire Department, for me as an instructor, teachers in the public schools. So, that can continue to take place. And there is a way to actually provide for that transition. It's actually much more simple than we really think because we're dealing with an infrastructure that already exists, not trying to create another infrastructure. We just needed to understand what happened in 1893, and then with that appropriate diagnosis, then we can apply the remedial prescription. What people have been doing is trying to apply remedial prescriptions without even knowing anything about 1893. And they just start saying I think we should do this. So, there is a way to do that and I can get that information to Madam Chair on the report that I gave to Mike McCartney, and that might be something for you folks to review.

COUNCILMEMBER KING: Okay. But --

COUNCILMEMBER KAMA: Chair?

COUNCILMEMBER KING: --your...so, we appreciate that you're using the word military law, it's not a hostile thing. This is what you were advising Mr. McCartney that they should do, correct?

MR. SAI: No, it's...

COUNCILMEMBER KING: Or were you...

MR. SAI: So, okay, so, under the law of occupation --

COUNCILMEMBER KING: Right.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: --the occupier is supposed to establish a military government to administer the laws of the occupied state.

COUNCILMEMBER KING: Okay.

MR. SAI: Now...

COUNCILMEMBER KING: But this is what you were advising...

MR. SAI: So, I'm going to get there.

COUNCILMEMBER KING: Okay.

MR. SAI: So --

COUNCILMEMBER KING: Okay.

MR. SAI: --a military government, which basically like in Iraq, they take over the head and they create what is called the coalition provisional authority in Iraq after the...that was the second Gulf War. All they did was take over Saddam Hussein's position but everyone in government stayed the same. So, it's not a military government, it's just run by the military in accordance with the law of occupation. Now, there is a way for that to take place within the United...within each of the states, okay, through its constitution. It's called declaring martial law. So, when you declare martial law like what took place in 1941, December 8th or 9th, I forgot, the day after General Short was appointed by Poindexter, the governor, as the military governor. All he did was replace the governor. Legislature suspended, executive, judicial continued. Now, under that system under American law where a lot of abuses by General Short regarding Japanese internment, taking of properties, which was later addressed later, you got reparations. What regulates a military government or the State of Hawaii to form a military government would be the laws of occupation, and that's what I have in the report to Mike to distinguish that. 'Cause what we're looking at was how do you address this situation with what we currently have? That's really the issue. And that was what was proposed to him.

COUNCILMEMBER KING: Okay. So, I just want to clarify that you're not advocating that we stop doing...everybody halts what we're doing and --

MR. SAI: No.

COUNCILMEMBER KING: --waits for something to happen?

MR. SAI: No, the...yeah no, don't wait --

COUNCILMEMBER KING: But no --

MR. SAI: --for anything.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

COUNCILMEMBER KING: --I think it's...I mean I understand it but I think it's good to clarify that --

MR. SAI: Yes --

COUNCILMEMBER KING: --for --

MR. SAI: --absolutely.

COUNCILMEMBER KING: --the general public so that, you know, we fully understand what the intent is as well.

MR. SAI: Yeah, absolutely. And this is really a matter of resource management, really it is. It's resource-managing. It's not changing institutions. It's first of all, what are the rules, look at, assess, adjust. That's what I meant take pause. How do you adjust? I'm not saying stop, just take pause, ask the right questions, get some advice, move. That's really all this is about. 'Cause I'm not here to shut down government, no. I'm here to transition government to make sure that it's lawful in light of all the violations that have happened, yeah. 'Cause our people in Hawaii are getting hurt and education is still taking place.

COUNCILMEMBER KING: Thank you so much for being here.

MR. SAI: Thank you.

COUNCILMEMBER KAMA: Chair?

CHAIR PALTIN: Councilmember Kama?

COUNCILMEMBER KAMA: Thank you for acknowledging me even though I'm not a voting Member of the Committee. Did you want to ask a question?

COUNCILMEMBER SUGIMURA: Oh, go ahead, I'll wait.

COUNCILMEMBER KAMA: Thank you. But I'm anxious to ask this because I need to leave for a meeting and...but I want to get stuff, does the...in the interim, does the legislative body have to be a statewide body during the de-occupation as we're awaiting de-occupation, can the legislative body be countywide?

MR. SAI: I would say based on what I reviewed, yes, but what the legislative body does at the county and state level may not be the same duties that the legislative body is doing now. It may include some, but it may exclude some duties. See that's...the issue is how do you continue --

COUNCILMEMBER KAMA: Right.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: --to maintain governance in light of the information.

COUNCILMEMBER KAMA: Correct.

MR. SAI: But yes, to answer that question, it's not disbanding --

COUNCILMEMBER KAMA: Right.

MR. SAI: --but it's reorienting, yeah.

COUNCILMEMBER KAMA: So, in the interim as the HCR 107 that, you know, Ms. Carroll had proposed, I looked at it and I see that that is probably something that this Council could probably propose also as a step to move forward. Because I think when we talk about this issue and what you're presenting today is that it may shock some people but it may make other people very happy. But in the interim, I think the education is what's needed. And I think sometimes in our own head, we're worried, we're scared, we're fearful but we just got to take a deep breath and say, let's try to right this wrong that we've been waiting for for so many years. And I believe with all my heart that the Council that is seated today is here for the right purpose, for the right time that things are in where they're supposed to be. And so, I think that this is the time and I think this Council is strong enough and bold enough and they have the strength to be able to take this task on. So, Chair, I leave it up to you to make the recommendation for a reso should you decide to choose so. Thank you.

MR. SAI: Can I maybe respond real quickly?

CHAIR PALTIN: Sure thing.

MR. SAI: So, you're correct that one possible opportunity that the Council can do whether through a committee or the Council at large, a task force. Now House Concurrent Resolution 107 introduced by Mele Carroll was to investigate the status of the two executive agreements. We're kind of past that already. Yeah, that was the beginning in 2011. So much has happened since then. But actually, a task force can be established to look into issues of taxation, legislation, you know, specifically what it is and seek out experts to provide recommendations for decision-making. And that's something that is within the duties of the Council and the Committee to inquire, to look into, yeah. No, that I agree, yes. Mahalo.

CHAIR PALTIN: Thank you, Member Kama. I'll take Member Sugimura, followed by Member Molina.

COUNCILMEMBER SUGIMURA: Thank you. Thank you very much. Thanks for being here. This is very interesting. So, I'm just curious in what your opinion is or where you stand on the Office of like OHA, Office of Hawaiian Affairs?

MR. SAI: So, to me the Office of Hawaiian Affairs is another political subdivision of the State of Hawaii as the Maui County is, the Hawaii County, DHHL. I don't hold anything at a

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

higher level because of maybe Native Hawaiian orientation, right. Because under Hawaiian Kingdom law, it wasn't a part of that. Actually, Native Hawaiians had what is called vested rights that was already inherent in the laws, not in institutions. In fact, the Hawaiian Kingdom government institution was a Native Hawaiian institution itself. I think what OHA brings in is a lot of confusion because people tend to look at this issue of sovereignty through a racial lens, through a cultural lens, when that's not the case. And I'm sure that you folks saw what I presented here had nothing to do with ethnicity. My dissertation has nothing to do with ethnicity. My law review articles, they have nothing to do with ethnicity. But I am Native Hawaiian but I'm not the point, right. 'Cause I'm also part-haole. My nationality and my great-grandfather is from Sparta, Tennessee, Charles Reeves. So, I'm also an American by parentage. I'm not picking a side. That's just I'm a Hawaiian and an American, right. When I served in the military I can reason that to be I was an American so I served in the military and I loved it, great training. So, I'm not a person to pick a side but I'm a person to try to understand and present information for people to make decisions, yeah. So, Dr. Kamanaopono Crabbe, who is the CEO for the Office of Hawaiian Affairs, is actually a very dear friend of mine. We're both classmates from Class of '82. We have our professional sides we carry but we're also friends. What I always try to do here is to ensure that I am not part of a Native Hawaiian sovereignty movement because people tend to throw me into that group. And whenever I say I'm not 'cause they think when I say Hawaiian Kingdom, I'm referring to ethnicity. The Hawaiian Kingdom was multi-ethnic. I'm talking about my great-grandfather's country that only now we are starting to learn about, right? So, in closing and answer to the Office of Hawaiian Affairs, if the Office of Hawaiian Affairs will be in the same position as you as the trustees, they could do things that they need to do within the framework of the law of occupation. And what would their duties be in light with what their mandate is, in light with what is what international law is. In fact, I was asked to draft a memorandum contracted by the Office of Hawaiian Affairs, the CEO, to explain OHA's position within international humanitarian law. They have that. And I provided recommendations in there and how to address issues within that framework. And I can provide that to Madam Chair and it can be distributed. So, Mike McCartney's report and also the report to the Office of Hawaiian Affairs.

COUNCILMEMBER SUGIMURA: Thank you. So, your Mike McCartney report is regarding the Hawaiian Kingdom laws, what you --

MR. SAI: How to...

COUNCILMEMBER SUGIMURA: --recommend?

MR. SAI: Mike McCartney's report is how the State of Hawaii can transform itself to comply with the law of occupation, yeah.

COUNCILMEMBER SUGIMURA: So, last question, Chair, if I could. So, within this structure and the realities, what about money? How would we all of us in this room get paid our paychecks, go to the bank, do whatever we do now, I mean what is life going to be like?

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: Well, that was when I was referring to the provisional laws. That included taxation. What it would exclude is IRS taxes 'cause that's a foreign law. But local taxes within the State of Hawaii and county which provide services can be justified under the doctrine of necessity so that part of conforming. So, no, the key is to continue governance but transitioning it into compliance.

COUNCILMEMBER SUGIMURA: So, if I could, maybe I didn't explain this correctly but okay, we work, you know, we work so many hours and we get paid so much, and it is based upon the US currency right now.

MR. SAI: Right.

COUNCILMEMBER SUGIMURA: So, what are you...what would this new currency be? You get paid by University of Hawaii.

MR. SAI: Yeah.

COUNCILMEMBER SUGIMURA: We get paid by the citizens of our County through real property taxes and fees. But we're tied to the US government so we have a currency that's tied to the US government. So, what would happen once this new governance --

MR. SAI: No, actually --

COUNCILMEMBER SUGIMURA: --...*(inaudible)*...?

MR. SAI: --good question. So, under Hawaiian Kingdom law that existed before the occupation, actually three currencies were recognized in the Hawaiian Kingdom, Hawaiian dala, kala, right; the British pound; and the US dollar. So, actually US currency is recognized under Hawaiian Kingdom law before the occupation, and they would take the most valuable of the currency whether British, Hawaiian, or American as a form of exchange. So, yeah, that's already covered in Hawaiian law. So, that's why that's a very good question, and then people would need to then look back into the Hawaiian Kingdom era to see what it was in 1893 before the US took over. And you actually start to see everything is there. It's not like we have to create a new currency. It's actually there. We just need to transition it, yeah.

COUNCILMEMBER SUGIMURA: So, we would recognize US currency, which is tied to the Federal government --

MR. SAI: Well, it's already --

COUNCILMEMBER SUGIMURA: --or would...

MR. SAI: --recognized under Hawaiian law.

COUNCILMEMBER SUGIMURA: Right.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

MR. SAI: So, yeah.

COUNCILMEMBER SUGIMURA: Yeah, so, maybe I'm not understanding all your details and in-depth that you are but I'm just curious then, do we...are we still part of the United States? Because if we are, then we would have to follow certain things which would then take us back to the US dollar to be able to utilize it or do we divorce ourselves from that and then you're saying we can choose from other nations providing whatever was there for...at the --

MR. SAI: Well --

COUNCILMEMBER SUGIMURA: --time?

MR. SAI: --you're not choosing from other nations. It's that Hawaiian law says three types of currencies are recognized as valid in the Hawaiian Kingdom before 1893. So, one of them was the US dollar, okay, the US currency. Okay. And US currency is used in other countries as well, you know, it's not just limited to the United States. Now, when we're talking about divorcing from the United States, okay, that's operating on the assumption that we're part of the United States. What I was explaining here was we were never part of the United States, and that the Permanent Court of Arbitration actually recognized it. And also, I failed to explain this, but before the Permanent Court of Arbitration began to form the tribunal of the three arbitrators, I received a call from the Secretary General of the Permanent Court of Arbitration. His name is Secretary General van den Hout. He's a Dutch national, runs this...the registry. He calls me and he says...well actually, no, I called the court for a procedural question and they told me if I could hold on 'cause he would like to speak me. I was the agent representing the Hawaiian Kingdom. So, he got...he jumps on the line and he says, Mr. Sai, he says that the Permanent Court of Arbitration's registry can find no evidence that the Hawaiian Kingdom does not exist. Notice he didn't say whether or not it's currently recognized 'cause he's referring to a country, not diplomatic recognition of a government, right. And then he said also that they determined that the Hawaiian-Dutch Treaty is still in effect. It hasn't been cancelled. And then his question was...and he prefaced it with this, in order to maintain the integrity of this case, he recommended that the Hawaiian government, with the consent of Lance Larsen's counsel provide an invitation to the United States to join in the arbitration. And if anybody can provide any evidence that Hawaii is a part of the United States, it would be the United States. So, that prompted a meeting on March 3rd in Washington, D.C., with the US State Department. His name is John Crook, from the US Justice Department assigned to the State Department. In that meeting, he could not believe that the case was accepted by the Permanent Court of Arbitration 'cause supposedly we're the 50th state. We're not the Hawaiian Kingdom. And then I said that I was asked and recommended by the Secretary General to provide a formal invitation to the United States to join in, with the consent of Lance Larsen's counsel. He began to watch his P's and Q's 'cause he knew that what I'm going to do is reduce this conversation to writing, send it to him that this is what we discussed, the invitation was given, and that I carbon-copied it to the Permanent Court of Arbitration that a

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

formal invitation was given. One week...a few weeks later, I get a call from the Deputy Secretary General, Phyllis Hamilton. She's an American for the Permanent Court of Arbitration. She tells me that the American Embassy notified the court of their answer to this invitation. So, they said to me, the Secretary General said that the United States respectfully declines the invitation to join in the arbitration but asks permission from the Hawaiian government to have access to all records and pleadings. Now, what just happened there was that the United States did not say or show that Hawaii is a part of the United States. They acknowledged that it's a state under international law, and the proceedings are going to continue. They did not stop it. All they asked was for permission. So, we killed two birds with one stone in that situation. One, they acknowledged the Hawaiian Kingdom exists and is not part of the United States. And number two, they asked the government of the Hawaiian Kingdom representing the Hawaiian State to have permission to the records. It was only after that point, and this was around late March, that the tribunal was formed in April. That's when the three arbitrators were selected. That's when the green light happened. So, the issue here with the United States, this is not I'm trying to get us to break away from the United States. I'm just bringing to people's attention of what actually happened. They know Hawaii is not part of the United States, and they allowed these proceedings to continue. So, that's why we decided after coming back from the Netherlands, number one issue is education. We need to educate people on these things. There are so...there...my presentation here is just the tip of the iceberg of so many things. I'm just trying to encapsulate it in some coherent way, but I would hope, and I'm sure it only gets you to ask more questions. And once you get two questions answered, guess what, you got ten more. Once you got 10 answered, you got 20 more. And that's the process and that's what I encourage, yeah.

CHAIR PALTIN: Councilmember Molina?

COUNCILMEMBER MOLINA: Thank you, Madam Chair. And thank you, Dr. Sai. Boy, I'd love to sit down and talk story with you . . .(inaudible) . . .

MR. SAI: So, are you military?

COUNCILMEMBER MOLINA: Formerly, yes.

MR. SAI: Right on. 'Cause you were kind of getting on like eh, follow the regs.

COUNCILMEMBER MOLINA: Yeah, you hit home on a lot of that.

MR. SAI: Okay. Good.

COUNCILMEMBER MOLINA: And I appreciate that because, you know, that was the impetus for you to do more research on this very important topic. And I appreciate you, like my colleague, Mr. Sinenci, I was a public school teacher. And then growing up in the public school system, I remember the textbooks were very...had a Westernized point of view on the overthrow. And there was not much thought about it. It didn't go into

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

great detail. So, I really appreciate what you're doing to implement your findings into our public schools 'cause our youth need to know --

MR. SAI: Mahalo.

COUNCILMEMBER MOLINA: --the full history about this. You know, you mentioned about Hawaii separating from the United States. I am concerned about, you know, us, still being protected by the United States because --

MR. SAI: Right.

COUNCILMEMBER MOLINA: --with the way the global movement is showing that like --

MR. SAI: Right.

COUNCILMEMBER MOLINA: --China and Russia. And personally, I would rather us to still be...remain allied with the United States. Can I get your thoughts on that?

MR. SAI: Sure. No, good question. Okay. So, the problem with the US bases in Hawaii, there's no status of forces agreement. Okay. So, if there's no status of forces agreement and there's no treaty of annexation, then the bases here are illegal. So, it's actually a direct violation of Article 2 of the Hague Convention number, I believe 5 or 6, the rights of neutral states. Okay. So, it says the...territory of a neutral state is inviolable. You're not supposed to put military installations on a neutral state otherwise you bring that neutral state into harm's way. Now, Hawaii was actually one of four countries that were recognized as neutral states in the 19th Century, Switzerland, Belgium, Luxemburg, Hawaii. Luxemburg and Belgium now become a part of NATO so they gave up their neutrality. Only Switzerland is neutral. Now, neutral doesn't mean you don't have an army. Actually, Switzerland has a very large army. It's almost like a national guard unit. I travel to Switzerland quite often. And in the Hawaiian Kingdom, we actually had an army called the King's Guard. Today, they call it the National Guard. They just changed the name when they took over everything, right. So, when we speak to the military, because of the US presence here, which their presence was because of Pearl Harbor, that's the reason why things happened the way they happened in 1893. It wasn't about sugar. It was actually about Hawaii's strategic location, which eventually became the headquarters for the Pacific command, right. So, because of the US military presence is why Japan attacked. It wasn't because of Hawaii, right. And it's because of the US military presence, that Kim Jong Un targeted Hawaii for nuclear strike. It wasn't because of Hawaii, it was because of the military presence. So, I'm very familiar with the US military presence. It's how to bring them to...in compliance with the law of occupation. Now, when I got...an interesting point there, when I returned from the Permanent Court of Arbitration, William Aila who used to be a harbor master in Waianae was involved with Makua Valley, right, back then. So, this was 2001. So, Makua Valley burned and they were trying to do sessions with the Native Hawaiian community. So, they invited Native Hawaiians to be speakers to speak to the Officer Corps at the 25th Division. Now, I served a short time in G-3 operations at the

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

25th Division. So, I got a call from one of the officers in G-3 saying that William Aila recommended that I could give a presentation to the Officer Corps. And they asked me what that topic was going to be. And I'm gonna be following Nalani Olds who sings and another tattoo artist, yeah. So, they asked what am I going to talk about. I said, well, I just got back from the Netherlands, probably talk about Hawaii's occupation. Silence. Excuse me? William Aila knew exactly why he recommended me. I'm not a singer and I don't do tattoo. And I'm not really a cultural practitioner. And he said, can we see that presentation beforehand? Absolutely. So, they came to my house. I did my PowerPoint, laid it all out. They looked at me, they said oh, this is good because they like the way I presented it. It was just factual like I'm an S-2, I'm just giving intel. Because one of the units was about to be deployed to Yugoslavia, NATO rotation. And they had to go to JRTC in Louisiana for training in the law of occupation. That was one of the brigades. So, it was set up for me to give a talk at the officer's club, and I'm sitting in front of the officers and General Dubik, two-star general was a commander, right, and he also have the DIVARTY commander. He's at the division level. So, he wants to talk to me 'cause artillery officers are all redlegs. We have that connection, right, no matter where you are. So, he introduces me. I lay out everything. And I could hear a pin drop amongst these officers who are there with their wives. In fact, their wives were hitting their husbands. 'Cause see, I can see all of you, but not all of you can see each other. And the husbands were going stop it, stop it, stop it. So, at the end, question and answers. One of the questions came up from a full bird colonel, one of the brigades that about to be deployed. He says, Keanu, I wasn't a doctor yet, he says, Keanu, what about the fact that Hawaii was...there was a plebiscite and the people voted for Hawaii to be the 50th state. Isn't that that's why we're the 50th state? I said, sir, excellent point. See, that's how you gotta talk to officers, right. Sir, excellent point but let me redirect you to the regulations. That was all stemming from the US Congress, which is limited to US territory which has no effect outside of its boundary. I said, with all due respect, sir, that's like your brigade is going to Bosnia and you're going to vote for statehood in Bosnia. He said, got it. And he puts his hand on his forehead and his head goes down. The next person comes up, must be a S-3 operations major, must have been battalion level. He says, so, Keanu, what about the military installations in Hawaii? What's going to happen to 'em? I explained everything I just shared with you. The regs are not followed, Hague Convention so and so, rights of the territory of a neutral state. He said, got it. 'Cause it's really just getting information to make a decision and not coming to a snap decision when you first hear the information, right? So, the issue of the presence of the US military violates Hawaiian neutrality under international law. Now, once occupation ends, and denationalization has been rooted out, and the Hawaiian Kingdom wants to enter into an alliance with the United States, China, whoever, that's self-determination, that's determined by the people of the country, right. I'm only looking at what's going on right now. So, these are the situations where the regs have not been followed. Before you change anything, we need to comply with the regs. And then from there, we move. So, that...that's where...so, it's a very conservative approach. I'm not saying run, I'm saying crawl, yeah, crawl, walk, run. Now, one thing that I share, there's a olelo noeau with my students up at UH, a Hawaiian proverb. It refers to the ka hue wai, the water gourd, right. So, the water gourd represents the person, and water in the gourd represents

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

knowledge. The gourd with a little bit of water makes the most noise when you shake it. You guys caught that? So, when you feel a little swishing is going on, it's called get more water, fill the gourd, get a task force, get some information. That is where we are today. So, we...this is a kakou thing. This is how we move forward in light of our situation, but we cannot whitewash anymore of what happened in our past than what has happened because we are victims. And right now, I can tell you in knowing my genealogy, I feel that I'm actually speaking on behalf of my great-grandfather who couldn't speak in 1893. That's who I'm representing is our kupuna of that past but also the aloha you must have in moving forward. So, the practical value of history is that it's a film of the past, run through the projector of today, on to the screen of tomorrow. That film never changes but you have to update the projector. Once you update the projector, you now see something that you didn't see before, and now it's called decision-making. Don't make a decision until you get the information. That's the process. The word for future in the Hawaiian language is ka wa mahope, wa is short for manawa, mahope is backwards, mamua, forward. So, when you tell a Hawaiian, look to the future, they look to the past. Folks, remember that CD by Bruddah Iz, Israel Kamakawiwoole called Facing Future? Facing future is ka wa mahope. That's why you see his back. He's facing the future. That's what we need to do. Don't be afraid of it. It's okay. And with that, mahalo nui, appreciate it.

CHAIR PALTIN: Sorry. Council Vice-Chair, did you have any questions?

COUNCILMEMBER RAWLINS-FERNANDEZ: No, not at this time. I just want to say thank you for your presentation.

CHAIR PALTIN: Okay.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair.

CHAIR PALTIN: Thank you. And does anybody else have additional questions? Well, we certainly have a lot to digest and a lot of due diligence to be doing at this time. And I would like to encourage you to reach out to Dr. Sai on your own if you have further follow-up questions. And I'll get the information that he referenced from him as well to share with you folks.

MR. SAI: Tamara? One last thing as well, so you folks have the packet but this PowerPoint, you also have a copy of it with the videos and everything. So, James has a copy. So, we make sure that all you folks have it and the directors and whoever else. Thank you.

CHAIR PALTIN: Thank you. So, you know, I just wanted to read a quote from the Queen that she made in January 1917 to her adopted daughter. It says, I could not turn back the time for political change but there is still time to save our heritage. You must remember never to cease to act because you fear you may fail. And I kind of feel like that's where we're at now. And if there is no objections, I'll defer this item.

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

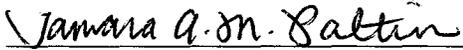
COUNCILMEMBERS VOICED NO OBJECTIONS.

ACTION: DEFER PENDING FURTHER DISCUSSION.

CHAIR PALTIN: Thank you. So, the...this concludes today's Planning and Sustainable Land Use Committee meeting. Thank you very much, Members. This meeting is adjourned. . . .(gavel) . . .

ADJOURN: 11:41 a.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:190515:acqp

Transcribed by: Ann Carmel Q. Pugh

PLANNING AND SUSTAINABLE LAND USE COMMITTEE MINUTES
Council of the County of Maui

May 15, 2019

CERTIFICATE

I, Ann Carmel Q. Pugh, hereby certify that the foregoing represents to the best of my ability, a true and correct transcript of the proceedings. I further certify that I am not in any way concerned with the cause.

DATED the 31st day of May, 2019, in Kihei, Hawaii

A handwritten signature in cursive script, appearing to read "A. Q. Pugh", is written over a horizontal line.

Ann Carmel Q. Pugh