

PLANNING AND SUSTAINABLE LAND USE COMMITTEE

Council of the County of Maui

MINUTES

June 5, 2019

Council Chamber, 8th Floor

CONVENE: 9:03 a.m.

PRESENT: VOTING MEMBERS:

Councilmember Tamara Paltin, Chair
Councilmember Shane M. Sinenci, Vice-Chair
Councilmember Kelly T. King
Councilmember Alice L. Lee
Councilmember Keani N.W. Rawlins-Fernandez

EXCUSED: Councilmember Michael J. Molina
Councilmember Yuki Lei K. Sugimura

STAFF: James Krueger, Legislative Analyst
David Raatz, Supervising Legislative Attorney
Pauline Martins, Substitute Committee Secretary

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)

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

Seated in the gallery:

Michele McLean, Director, Department of Planning

OTHERS: Dr. David Keanu Sai
Russell Kahookele
His Highness Kaua
Jasee Lau
(27) additional attendees

PRESS: *Akaku: Maui Community Television, Inc.*
Ben Cohn, Videographer, Integrative Media Co-operative
Calvin Alfaro, Videographer, Integrative Media Co-operative

CHAIR PALTIN: The time is 9:03 on June 5th, Wednesday. The Planning and Sustainable Land Use Committee will come to order. If I can request that everyone in the

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Chambers silence any cell phones or noisemaking devices. My name is Tamara Paltin, I'm the Chair of the Planning and Sustainable Land Use Committee. And I'd like to introduce Mr. Shane Sinenci from Hana as my Vice-Chair.

VICE-CHAIR SINENCI: Aloha kakahiaka kakou.

CHAIR PALTIN: Aloha. We also have Member Mike Molina who's excused at this time and he'll be joining us a little later. We have Councilmember Alice Lee from Wailuku.

COUNCILMEMBER LEE: Good morning, Chair.

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

COUNCILMEMBER RAWLINS-FERNANDEZ: Aloha kakahiaka, Chair.

CHAIR PALTIN: Aloha kakahiaka. We have Council Chair Kelly King from South Maui.

COUNCILMEMBER KING: Aloha. Good morning, Chair.

CHAIR PALTIN: Aloha. Good morning. Committee Member Yuki Lei Sugimura will not be able to join us today, excused. And I haven't heard from Councilmember Tasha Kama so I guess absent at this time.

COUNCILMEMBER KING: Is she a voting Member? Is she a voting Member?

CHAIR PALTIN: Oh, yeah, sorry. She's not a voting Member but welcome to attend, as well as Riki Hokama. Thanks. With us today from Corporation Counsel we have David Galazin. Good morning. And from the Administration we have Director of the Department of Planning Michele McLean in the audience. We also have Dr. David Keanu Sai who will be giving a presentation. For our Committee Staff we have Committee Secretary Pauline Martins--aloha--and Legislative Analyst James Krueger.

. . . BEGIN PUBLIC TESTIMONY. . .

CHAIR PALTIN: At our District Office we have Ms. Zhantell Lindo from Molokai. Good morning.

MS. LINDO: Good morning, Chair.

CHAIR PALTIN: And Ms. Denise Fernandez from Lanai Office.

MS. FERNANDEZ: Good morning, Chair. This is Denise Fernandez.

CHAIR PALTIN: Good morning. And Ms. Mavis Oliveira-Medeiros from the Hana Office.

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MS. OLIVEIRA-MEDEIROS: Good morning, Chair. This is Mavis in Hana.

CHAIR PALTIN: Good morning. So, we have one item on the agenda today, PSLU-1(3), Update on Land Use and Planning in Consideration of Hawaii's Status Under International Law. This will be part two, Stability Versus Change, and at this time we'll be accepting testimonies. For individuals testifying 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 Office 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 with an additional minute to wrap up if you need it. 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 a connection to the Council District Offices but there are no testifiers at the District Offices at this time. Our first testifier today is Russell Kahookele from...testifying on behalf of the lawful Hawaiian government. His title is a representative, and Mr. Kahookele will be followed by His Highness Kaua.

MR. KAHOOKELE: Good morning, Council Chair --

CHAIR PALTIN: Good morning.

MR. KAHOOKELE: --Councilmembers. My name is Russell Kahookele, I'm the elected representative from the lawful Hawaiian government from the district of Hana. Good morning, cousin. Thank you for bringing Dr. Sai to this Committee to educate you guys about this dreadful hewa that happened in the history of our people. We know that there was a dreadful wrong but we also know that it happened 100 years ago. We also know in the history of America and the world that there's been human rights violations committed against the first peoples of America, the continent. They named them Indians. Now, they trying for call us Indians. Well, we're not Indians, we're Hawaiian nationals subject to the Kingdom. But somewhere along the line they made us Americans, yeah. My father and his brothers all fought for America. My brothers and I joined the military to serve America to fulfill what we believed was our service obligation to the nation only to come back home and find out all these years while they was making us pledge allegiance to the flag, they were the ones who forced our country into exile. Our country was never dissolved, it was just forced into exile and we were made Americans. That status, American, is a pretty good thing. The Constitution that I fought to defend is a good document if they honor it. If you just watch TV today you going see America fighting their President, accusing him of crimes. Well, America admitted in 1993 that the whole nation committed a crime against us, and you Councilmembers here today was elected by the Americans living here. And upon taking your seat you have to swear an oath to uphold the United State Constitution and the Constitution of the State of Hawaii. Now, you should ask yourselves, what is the origin of the Constitution of the State of Hawaii? It says Hawaii Revised Statues. Revised from what? Who gave them that authority to revise it? Why isn't it the republic constitution? The provisional government that committed this crime committed...created the republic and then they tried to give our country to America. Our kupunas signed a petition against annexation and because of the

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petition our country was never annexed to America. And if America can just pass a resolution annexing any country in the world, why don't they just pass a resolution and annex the whole world and then they can just police the whole world? That's what they trying for do right now. They went to Iraq to liberate the people of Iraq. I pray that they don't come here to liberate us the way they did that in Iraq because when America...in fact they still occupying that country but they had elections there, yeah. But the people in Iraq that they went to liberate is suffering right now from all the weapons of mass destruction that said Saddam Hussein had. But who had it? America had it. I was in the military, I know how destructive they can be. I know that if we pick up hatred and violence against them, they going destroy us. Case in point, when the Indians, the first peoples of the continent, yeah, declared war against the settlers, they lost and the laws of conquest therefore came into action. They tried to commit a war here, our Queen was smarter than that. She put her faith in the treaty of friendship and in ke akua and that's where my fate is at. I'm a Christian, I accepted Jesus Christ and I know that two wrongs don't make a right. So, I'm trying to correct this in a peaceful process and maintain our treaty of friendship with America. Now, how do we go about that?

CHAIR PALTIN: Please conclude.

MR. KAHOOKELE: When the treaty is out there, the treaty can only be negotiated when there's two parties, okay. There's the United States of America on one side, there's the Kingdom of Hawaii on the other side. If they made all of us Americans, who do they negotiate with on the other side? So, we respectfully renounce our claims to America and repatriate ourselves to the Kingdom of Hawaii that was reinstated on March 13, 1999 in accordance with State law, Act 359, US Public Law 103-1050, as well as the international treaties that the United States are signatory too. Now, we came before this Council back in 2008, '09 and '10 and the Council passed the Resolution 10-79 confirming these laws that we are in compliance with. However, in our attempt to organize ourselves and unite ourselves in a process, we being threatened with fines and jail time.

CHAIR PALTIN: Thank you, Mr. Kahookele.

MR. KAHOOKELE: Further...thank you, Chair, for bringing Dr. Sai and for giving me four minutes.

CHAIR PALTIN: Thank you.

MR. KAHOOKELE: I understand you gave him an hour and a half, but I'm not finished but I'm going excuse myself because I don't want to offend anybody else. Thank you.

CHAIR PALTIN: Thank you.

MR. KAHOOKELE: And as they say God bless us all.

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

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CHAIR PALTIN: Next up we have...

COUNCILMEMBER RAWLINS-FERNANDEZ: Chair?

CHAIR PALTIN: Yes...oh, any questions for the testifier?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo.

CHAIR PALTIN: Ms. Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Aloha, Mr. Kau [sic]. Mahalo for your testimony and for coming today. I just wanted clarification on you said that the Council, the County Council passed a resolution in 2009?

MR. KAHOOKELE: Ten. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Ten, 2010.

MR. KAHOOKELE: What happened was we came before the Council, Prime Minister Henry Noa made a PowerPoint presentation explaining to them how we reinstated our country and that we want to work together because clearly there's two governments here. You guys is the lowest form of the government...well I take that back, the communities is the lowest form. The community associations and then comes to the County then the State and the Federal government. Well, we came to you because we wanted to work together. We've been meeting with the Police Department trying to find a way where we can work together. We trying to exercise our perfect right but yet we being hampered and threatened with fines. We met with the Police Department and the CIU Division. We showed them the laws, we showed them everything. Corporate Counsel Brian Moto confirmed these laws, and if it's a law, then how come nobody else knows about it? How come nobody respecting it? When you swear an oath to tell the truth, then you need to tell the truth. When you swear an oath to uphold the Constitution, then you need to uphold the Constitution. And the United States Constitution, Keani, states that the treaties are the supreme law of the land. We had a treaty of friendship, it's our intention of maintaining our friendship status. We don't want America as an enemy.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo for your response. Mahalo, Chair.

MR. KAHOOKELE: Thank you.

CHAIR PALTIN: Sure thing. Any other questions for the testifier? Seeing none, thank you for coming.

MR. KAHOOKELE: You're welcome, Chair.

CHAIR PALTIN: Thank you for your testimony.

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MR. KAHOOKELE: Thank you.

CHAIR PALTIN: Next up we have His Highness Kaua testifying on behalf of the Kingdom of Hawaii and Sovereign Nation of God, Hawaiian Kingdom.

MR. HIGHNESS KAUA: Aloha is love. In love He give to you, you, you, you, you, you, you, you. That is totally unique. Blueprint designed, I am who I am and you are who you are and no one can ever take that away from either or, unless you let them. And two, their crimes of that time which I seconded his and everything he said, a continued motion and flow. And I'm happy that I get to be here from when one brother tells another brother. Makes what, one and one plus one is one and the same. Father, ancestors, brother, Jesus Christ, me, we is talking to you, so keep it that way. Being who we are, they will do what is good for our people and my dad did in the military, so did me. I'm glad that I get to see you, all of you and you being military as well because right now you, you, you are in the biggest ever courtroom of the century in the Kingdom right now on TV. And there are people that listen now and will listen more when this is told to them. Being representative, highness, become a counsel advisor. In the courtroom they call it attorney. That's the line I sit on. To defend our people that been constantly been getting raped as I can see you now. Rape, murdering, constantly, daily, and not even know it. Why? 'Cause if asked over and over, brother and sisters, the biggest crimes in the world. So, this is the fact and be a fact for the Hawaiian Kingdom, the Kingdom of Hawaii, the Sovereign National Nation of God. The fact of crime has consistently been used till now and have asked today as well too, this is three years now, no rebuttal, no nothing because it comes from Heaven above and . . . *(inaudible)*. . . It is true word. Word, you add another letter it changes everything, as it does when you go to other nations. Military, it changes. They need a way to go around and right to us people, how could they do that? They used that on each and every one by taking away our own olelo. One minute more.

CHAIR PALTIN: Please conclude.

MR. HIGHNESS KAUA: I'm just happy that we're in military. Never thought of it being with my brother Gary to take another position. And my family's ground with our Kamehameha aliis known as War Captain Kaua. To accept the responsibility is not easy for anybody but you got to be willing to do it and do it now. For war captain, we are in duty of as I said before and last one, what is Father to we, sky Heaven that they use it with their planes and everything else, the aina to the mountain all the way to Midway and Rapanui, 4-plus million acres. In this courtroom now you have 39,000 of my brothers and sisters...

CHAIR PALTIN: Thank you, Mr. Kaua.

MR. HIGHNESS KAUA: I'm almost done. Gary Wood --

CHAIR PALTIN: Your time is up.

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MR. HIGHNESS KAUA: --that I'm defending, so that going be on record. Now --

CHAIR PALTIN: Thank you.

MR. HIGHNESS KAUA: --to the 39,000 of us that annexed and petitioned. Two, 39,000 --

CHAIR PALTIN: Members, any questions --

MR. HIGHNESS KAUA: --to 39 million...and I'll be leaving.

CHAIR PALTIN: --for the testifiers?

MR. HIGHNESS KAUA: Thirty million and the best part is it's not over because my blood --

CHAIR PALTIN: Thank you.

MR. HIGHNESS KAUA: --is pure like yours in all bloodlines.

CHAIR PALTIN: Seeing no questions, thank you --

MR. HIGHNESS KAUA: Thirty-nine million to 39 billion.

CHAIR PALTIN: --for coming.

MR. HIGHNESS KAUA: Therefore military award...let all people that stay in the military --

CHAIR PALTIN: I'm going to call a quick...

MR. HIGHNESS KAUA: --to know what's going on, and that's what we going do.

CHAIR PALTIN: Would anyone else like to testify --

MR. HIGHNESS KAUA: Thank you.

CHAIR PALTIN: --in the Chambers today? Mr. Lau, if you could fill out a form afterwards.

MR. LAU: Good morning.

CHAIR PALTIN: Good morning.

MR. LAU: My name's Jasee Lau, I'm from Kula. Yuki Lei must have had something really, really, really important to go to, so you guys...I'm sure she'll be here in a minute. So, yes, I was...I had enlisted in the United States military also, I was in the Army and I did have short hair at one time, but I didn't make it, I only made it six months. But I did...I am, technically a veteran, I get a flag and a grave at Arlington. So, yeah, I appreciate you serving my country and I also apologize on behalf of my country the United States to all the Hawaiians for what they did to Queen Liliuokalani. I try not to

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cry every time I look at her picture. So, I just had a question for Dr.--let me make sure I get his name right here--Sai, Dr. David Keanu Sai. A friend of mine...hold on a second. On camera I get stage fright. Kimo Rivera said that you...I know I'm supposed to direct my questions to the Council, said that Dr. Sai was working for the corporation and I was wondering if he could elaborate on that. Thank you. And everybody welcome to the Kingdom.

CHAIR PALTIN: Thank you, Mr. Lau. Any questions for the testifier? Seeing none, thank you. Anyone else wishing to testify this morning? Seeing none, Members, at this time I'll now close public testimony with no objections.

COUNCILMEMBERS: No objections.

CHAIR PALTIN: Okay, public testimony is closed.

. . .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 one item on today's agenda is PSLU-1(3), an Update on Land Use and Planning in Consideration of Hawaii's Status Under International Law. Pursuant to Rule 7B 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. So, the reason that I'd like to introduce this item onto the agenda, you know, one of the County Council's primary functions is to dictate land use policy. This is done through community plan updates, granting of land use entitlements, and amendments to the County's Zoning Code. Currently, West Maui Community Plan update is on deck, and the committee assigned to vet and deliberate on land use policies is the Planning and Sustainable Land Use Committee which I Chair. I believe for the Committee to successfully and respectfully carry out our duties, Hawaii's history and status must be discussed. To that end, I have invited Dr. David Keanu Sai to present. Dr. Sai has earned a Ph.D. in Political Science from the University of Hawaii. He specializes in international relations, state sovereignty, international laws of occupation, United States Constitutional law, and Hawaiian land titles. The purpose of this training is to provide the facts and truthful history of this place we all call home to decision makers and the public at large, and to use this truth as a foundational basis for everyone's decision making and to raise our quality of life as residents of Hawaii nei. So, I'd like to present Dr. David Keanu Sai. Because of his expertise in this subject area the Chair will be asked...the Chair will ask he be designated as a resource person pursuant to Rule 18A of the Rules of the Council, if there are no objections?

COUNCILMEMBERS VOICED NO OBJECTIONS

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CHAIR PALTIN: Dr. Sai, if you could please proceed with the presentation.

MR. SAI: Thank you, Chair. Aloha.

EVERYONE: Aloha.

. . .BEGIN PRESENTATION. . .

MR. SAI: Good being back here. Mahalo nui. The first time when I gave the presentation on May 15th it sparked a lot of questions from you and these were really good questions, but we didn't have time to actually get into the details of it as I would have rather done in a presentation itself. That way you folks can actually see this as the second step. The second step from the first that explained the situation but now we're getting into the crux of the issue, how to proceed in light of this information, and that was an important question, very important. So, the title of this presentation here is Stability Versus Change, right. Now, from my military experience, whenever you transition forces, one withdraws, the other goes in, what you want to maintain is stability. You don't want to change because if you move in making a change, you create confusion, right. In the military and military people will know this but I'll have to say what it is, you will ultimately get what is called a Charlie Foxtrot, okay. And that's what you don't want. That's what you don't want. So, what I'm going to be addressing here is how to address stability and still comply with the law, especially with the principle of what is called the rule of law, okay. So, what I want to do is just briefly touch upon my...a quick review of what we covered on May 15th, very brief, okay. So, my academic qualifications, I'm a graduate of the Kamehameha Schools 1982. In 1984 I graduated from New Mexico Military Institute with an associate's degree where I also received a commission as a Second Lieutenant in the early commissioning program. In 1987 I received my bachelor's from the University of Hawaii in sociology. My master's degree in political science from the University of Hawaii in 2004 specializing in international relations. And then my Ph.D. degree in 2008 from the University of Hawaii where my doctoral focus was on the Hawaiian Kingdom's existence, its continued existence under the laws of occupation. Okay. Now, I was also admitted as an expert witness in seven cases, both civil and criminal. What ends up happening if people don't know is that you don't automatically be admitted as an expert, the opposing side has an opportunity to try to debunk and if not they're admitted. Judge Cardoza in State of Hawaii versus English of the Second Circuit admitted me as an expert witness on the subject of the Hawaiian Kingdom and international law. I also had a military service, I was a Field Artillery Officer for ten years. I was honorably discharged as a Captain so I have that background. Now, what I didn't share on the 15th was my personal ties to the Hawaiian Kingdom. Well, in the *Ka Makaainana* newspaper 1896, they printed what is called Mookuauhau Alii, Chiefly Genealogies. On my dad's side, I'm a direct descendent of Pohaialii Koi, a Hawaiian Chiefess from Waipio, Hawaii. And from my mother's side, I'm a direct descendent of Luaapana Simerson from Napoopoo. In fact, in that same line that stems from Kanainanui which is Kalanimanokahoowaha, he's the one that is known for possibly killing Captain Cook so I guess it's in our family to be warriors. So, there's the *Kamakaainana* newspaper, an entire year of 1896, they were printing Mookuauhau Alii, okay, from the board of genealogists after the

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government was overthrown. The *Kamakaainana* newspaper from...throughout 1896 was also the subject of reprint of Edith McKinzie's Hawaiian Genealogy. Some people might know of that, it's a publication. And there is my third great-grandmother, Pohaialii Koi, she was also a chanter for King Kalakaua. And they say that that is where my Auntie Marlene Sai, the singer gets her voice from, that's within the family. And then Luaapana Simerson, descendant of Liloa. Now, also my great grandfather, my tutu's father William Kuakini Simerson was one of the 14 pallbearers of Prince Kuhio's casket who were identified in the *Commercial Advertiser* as 14 high-ranking chiefs of the Hawaiian Kingdom. So, from a personal side I have a direct tie, but also from an academic, from a military experience I also have that in me as well. So, recapping, back in 1895, Samuel Damon who was a trustee for the Kamehameha Schools stated in 1895 as a so-called member of the Republic of Hawaii, "If we are ever to have peace and annexation the first thing to do is to obliterate the past." Obliterate the past. That term denationalization is basically the obliteration of the national consciousness of the people of an occupied state, and denationalization is actually a war crime. That's what Germans and Italians were committing during World War II and were prosecuted for that. Now, this denationalization that began early in the early 1900s has created an empty vessel of information, and we are now beginning to recover our memory and that's through education. Well, Donald James Wheal, a British novelist says, "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, these things have to be taken into consideration 'cause we're dealing with over 100 years of false information that we're trying to decipher through, and a lot of times it gets personal, right. Like for myself in the military, I came to the realization I was in the wrong army, but I didn't not like my time in. In fact, my experience in has helped me become who I am today, especially the leadership qualities that they teach you as officers, right. So, from 1999 to 2001, there was a court case at the Permanent Court of Arbitration, Lance Larsen versus the Hawaiian Kingdom. The Permanent Court of Arbitration acknowledged the continued existence of the Hawaiian Kingdom as an independent state and also the Council of Regency as its provisional government. If that wasn't the case, the Permanent Court of Arbitration was...would not have allowed the case to go further. They had to ensure what they had was institutional jurisdiction. And these things that I'm speaking to are international rules, not local rules, so it's another aspect that we need to understand that things are beyond Hawaii which may be perceived as just very parochial when in fact Hawaii is part of an international system. There's another language at that level, as there's another language at at the national, at the County, at the communal level. When we got back from the Netherlands, the purpose was to begin to expose the occupation and deal with denationalization, and that's when I entered the University of Hawaii as a graduate student and all these publications began to blossom: a plethora of doctoral dissertations, master's thesis, law journal articles, peer-reviewed articles all being published. It's not just me, it's happening all over. Correcting revisionist history, this information that was being researched at the University of Hawaii had an effect on Tom Coffman who in 1998 came out with his book *Nation Within*. The subtitle is *The Story of America's Annexation of the Nation of Hawaii*. That would be incorrect because Hawaii was never annexed but rather occupied. In 2009, Tom Coffman came out with his second edition and he changed the subtitle to *The*

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History of the American Occupation of Hawaii. So, it had an effect on a very well-known historian named Tom Coffman. And Tom actually knows me, he and I are good friends and he told me he was going to change the subtitle, because he couldn't deny the facts, but what held him back he said, and he said to be honest, he said because I'm an American and it was hard for me to admit this information. But he was encouraged by scholars at the University of Hawaii which included myself in bringing this information out. So, in a note on the second edition, Tom says in making this change I've embraced the logical conclusion of my research into the events of 1893 to 1898, in Honolulu and Washington. I am prompted to take this step by a growing body of historical work by a new generation of Native Hawaiian scholars. Now, he's going to cite a quote from my law journal article out of the University of San Francisco, School of Law. Dr. Keanu Sai writes, "The challenge for the fields of political science, history, and law is to distinguish between the rule of law and the politics of power." And this is where we're now getting into the effect and impact of this information, but you have to put it through a framework that does not allow it to go ballistic and that's called the rule of law. Also, the Hawaii State Teacher's Association in 2017, was able to get a resolution passed at the annual Conference of the National Education Association, the largest union in the United States of public school teachers, over three million members. It says...they were able to pass new business item 37 "That NEA will publish an article that documents the illegal overthrow of the Hawaiian monarchy in 1983, 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." And when these delegates returned home, I was approached by them and they asked if I could actually write those articles for them to be published by the National Education Association which last year April 2018, was the first article, The Illegal Overthrow of the Hawaiian Kingdom Government. Ensuring in that article we're talking about laws of wars, FM 27-10, and the fact that you can overthrow a government without overthrowing the country. It's fully explained in that article. Followed by another article in October of 2018, The U.S. Occupation of the Hawaiian Kingdom, and then the impact that this occupation has had on the Hawaiian people. And there I address denationalization but also universal healthcare at Queens Hospital where all natives are supposed to get service at no cost and how that changed when Hawaii got taken over. Also, I spoke about Perfect Title in 1996, created a firestorm, and what we're seeing there and keep in mind, remember the raving lunatic, it says here Perfect Title focus on, of criminal probe. 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 property records dating to the 1840s. Now, the irony of that statement, it makes perfect sense today. In 1997, what? That's crazy. That's what education does, right? And Perfect Title gets raided, so we get arrested for theft, racketeering, and tax evasion. That's when you get hit for speaking the truth, right. Now, this raid came on the heels of a presentation that I gave at the Hawaii Prince Hotel put on by the Hawaii Developers Council. Over 500 people showed up. On this panel was David Pietsch, President of Title Guaranty Escrow, Bruce Graham from Ashford and Wriston, also a law professor at the University of Hawaii that teaches land titles, Neil Hulbert from Alston and Hunt law firm representing Chicago Title Insurance Company, and an

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attorney from Bank of Hawaii to moderate who was an attorney, and myself and Donald Lewis, the partner of Perfect Title. After the presentation, Bruce Graham comes up to me and he says Keanu, we need to talk. I said okay, Bruce, what's up? He says people are going to get hurt, you can't do this. I said, Bruce, this is about land titles and title reports, that's all it is, and I sent you a title report from Perfect Title, all you need to do is go line by line and refute it, that's all. And if you can refute it, get us on fraud or conspiracy. He says I can't refute it, it is historically and factually correct. So, I said what's the problem? He said well...well, he said America's here and that's just the way it is. And my response was I didn't know America was engaged in title insurance, that was the issue. A week after we get raided. Now, the newspaper starts spreading lies about me, telling elderly people don't pay their mortgages. Constantly shifting attention all over the place. And I got to tell you, racketeering, that's crazy. Well, nobody blinked an eye back then. In fact I think a lot of people wanted us to get locked up. But as a trained officer, we call that incoming. It's called hit the ground 'cause of the blast radius, right. So, if anything, I don't have animosity but I understand the reaction, but accountability also is still coming as well. The Royal Commission of Inquiry was established, this is part of the recap of what we covered on May 15th, and this Commission of Inquiry, its function is to investigate the consequences of the belligerent occupation of the Hawaiian Kingdom by the United States since 1893. The purpose shall be investigate...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. Under Article 3, the composition of the Royal Commission shall be decided by the head which is myself and shall be comprised of recognized experts in various fields: international law, humanitarian law, human rights law, self-determination, legal and political history. I can assure you that this commission is all European, and they are all renowned experts in their areas who have all committed to being a part of this Commission of Inquiry. And the chair can confirm that they had been convened.

CHAIR PALTIN: Yes, I can confirm.

MR. SAI: Now, the different war crimes that's going to be under investigation by this Commission of Inquiry is one, denationalization, pillaging, unlawful appropriation of property, depriving a protected person a fair and regular trial, destruction of property, unlawful confinement of a protected person, and removing protected persons from the country, and involuntary conscription into the United States Armed Forces which is the draft, okay. That's actually all illegal. So, this was just a wrap-up of what was covered on May 15th. Okay. Now, we're going to move to the next step, the impact.

. . .END PRESENTATION. . .

. . .BEGIN VIDEO PRESENTATION. . .

MR. PETER UMIALILIOA SAI: The Hawaiian subjects, the Hawaiian nationals, they're fervent about what they want, that's...there's no questioning that. But on the flipside there's

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also 100 years of training, yeah. And an old guy in Waimea told us, yeah, about the elephant, yeah, when the baby elephant is small, they chain 'em to the stick with a chain, a big huge chain, and after years of trying to break that chain, he figures out that I can't do it. And when that big elephant...when the big elephant gets big they just tie a little rope on his leg and tie it to the stick. And the smallest resistance will stop that elephant from trying. He can break it, it just takes one step like that, and, you know, for us that was...that's exactly how it is. All you got to do is take the step because that chain is just a rope and it's all in our minds, yeah, so.

MR. ALLEN HOE: I didn't hesitate, it was for me a no-brainer, I said yes, I'll be there. And the first day of the proceedings literally as I'm an attorney and for six years early in my career I was a district court judge, I've always been a history buff, a student of history, a student of political science. But that first day at the Hague, the proceedings literally took my breath away. I recognized that in over a century the question of the Kingdom of Hawaii as a nation state in the family of nations was not an issue, and I, just kind of like, wow, where are we and what are the ramifications of these proceedings?

MR. DONOVAN PREZA: We didn't understand the significance of what that meant, right. That's the significance between occupation and colonization, right. Two very, very...and this is the interesting thing, right, they look very similar on the surface but they're very different. Alright, and for me this is where the precision, right, the precision of observation, right. You go back to traditional Hawaiian times and they observed everything. A rain that came this direction was different than a rain that came from this direction. A rain that hit your skin this hard it was a different, had a different name than a rain that hit your skin this hard, right. And oama is different than a weke, right. All the life stages of a fish had names, right. Today, it's a fish, right. Back then it was an oama, then it was this, then it was that, then it's a weke, right. You name your fish, they all had that kind of, that attention to detail, right. Today, we're a lot less precise with that, and I think that's a good metaphor for the difference in precision between occupation and colonization. Yeah, they both got land, both got people, yeah, but one's politically different than the other. Not better, different, right, and that acknowledgement of that difference is crucial.

MR. DEXTER KAIAMA: I can say that I have not had one instance in court where there's been any opposition to either the factual, the legal, or historical arguments that we made concerning the legal status of the Hawaiian Kingdom.

MR. STEVE LAUDIG: So, anyway, we've gotten a little bit away from Hawaiian Kingdom and on to like why is an American involving themselves in a Hawaiian Kingdom issue? Well, because as an American patriot I think it's in my country's interest for it to not be here.

MR. WILLY KAUAI: Hawaii's legal and political history today is much more complex, it's much more nuanced in part because we have a much better understanding of what took place in the 19th Century. And so a lot of that, right, a lot of just the basic daily conversations that we have, whether it be on the streets or whether it be with family, the way that we talk about Hawaii has changed.

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COUNCILMEMBER LEE: 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, excellent point because Mike McCartney was asking those same questions in my meeting with him.

. . .END OF VIDEO PRESENTATION. . .

MR. SAI: So, this is a segue into why we're here today, yeah, the now what? How does it work? The purpose of last presentation was to give you the context, right, and I did mention and you folks do remember it will naturally get you to ask questions. Once you get an answer to that question, you will probably get five more questions. Once those five questions are answered, you'll probably get ten more questions. So, the issue is not necessarily to remember the answers but understand the system by which you came to find the answer, and that's what we call the theoretical framework, okay? So, you might say that we've been playing baseball...I mean sorry, we've been playing football using baseball rules and it's not working. What you need to understand is in the game of the football, there are football rules and these rules in this case would be international humanitarian law. We need to understand those rules, not that we have to believe it, no, 'cause it exists in and of itself, these are the rules, whether you talk about Hawaii, Kuwait, Iraq, Japan, these are the rules, and that's what we're going to be getting into. So, inherent in the law of occupation, okay, there is the co-existence of two legal orders, two legal systems, that of the occupying state and that of the occupied state. Very important. The failure of the United States to comply with the law of occupation for over a century has created a humanitarian crisis of unimaginable proportions, and only people now are starting to realize the crisis because they now understand the rules. And as we start to realize the crisis, we now are left holding the bag on how do we fix the problem. We here today are not from 1893, those insurgents, we here today are not part of William McKinley's administration and later President Roosevelt's administration. The reason why our history became the subject of denationalization was because the United States needed to conceal the occupation because of the military buildup of Hawaii and Pearl Harbor. That is on the record, Congress admitted that. It wasn't about sugar, it was about military installations. Today, we have over 118 military bases. Here is the headquarter, Honolulu is the headquarter for the United States Pacific Command, the largest unified combatant command in the world. That's our reality, right. Hawaii is targeted for nuclear strike by Kim Jong Un, North Korea. Remember we had that false alarm and people were wondering, where do we go? We're not set up that way, there's no basements. In fact, one news clip had a father putting the daughter in...taking the manhole cover off and putting her in there. This is our reality now and somehow we got desensitized. It's almost like, yeah. Well, imagine my great grandfather William Kuakini Simerson. In 1898, Hawaii gets threatened for an invasion by a US adversary, where does he go? So, with this information gives us reason to ask more questions and it's okay. And I have to acknowledge and thank the Council and under the leadership of the Chair to allow me to come in to share this information with you,

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not to tell you how to think but to explain to you what's going on, and you folks can make informed decisions. That's really all it is. There is no problem working with Corporation Counsel. There's no problem working with Attorney General. There's no problem working with State of Hawaii, Legislature, but people have to ask the questions and seek individuals who are able to answer them and not tell you what you want to hear. The stakes are too high here, we have to address this head-on. Whenever you deal with a crisis, there is a difference between those who respond to a crisis and those who react to a crisis. Those who respond to a crisis, let's say active shooter, you see police officers going to the shooter. That's not normal, that's from training. Reacting to the crisis, running for safety. It's a natural reaction. What's not natural is going into the crisis. As an officer in the Army, we were trained to respond to crisis, not react to it. And before you respond, you got to make sure you got good intel. Good intel, information of where you're walking into in order to come up with a plan. We're at the stage here of just addressing the crisis, but today we're going to be getting into that hard part, responding to the crisis, right. And that's what you folks have being in positions of authority. Just like when I was a Captain, I was in a position of authority. I can put people in prison up to two weeks, but I also could refer for court-martial. I can dock pay and I had to make sure that whatever I did as an officer I had to back that up. I had to follow procedures, follow the regs. Right now what I'm going to be sharing with you are those appropriate regulations that need to be complied with.

. . .BEGIN PRESENTATION. . .

MR. SAI: Now, the failure of the United States will prompt just what I said for you folks to think about how to address this crisis, how to address it. And I am a firm believer that the approach in response has to be keeping in mind stability, not chaos. I'm not into change, I'm into transformation, right, but it has to be a transition within certain rules and we're going to talk about those rules. So, here's an example of how the United States had to deal with the crisis. United States Supreme Court in 19...well, let me explain. So, from 1861 to 1865, the State of Texas was in a civil war with the United States. The laws of war and occupation applied which was codified under what was called the Lieber Code, okay, which later became the Hague Convention, okay. The Federal government did not recognize the Texas government as lawful, and anything emanating from it as, such as marriages, conveyances, contracts requiring notaries, government bonds were illegal and void. The impact of that reality would hit after the war. And in 1969 under the court's original jurisdiction, the Supreme Court heard a case Texas versus White. They had to make sense of what is void legally, but practically can it be remedied without violating the basic principle itself of the rule of law?

CHAIR PALTIN: Eighteen...

MR. SAI: So, in Texas versus White...

CHAIR PALTIN: Eighteen sixty-nine, yeah? Eighteen sixty-nine.

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MR. SAI: Oh, 18, yes. Actually, it's supposed to be 1868, I'm sorry. And the Councilmembers have a copy of an explanation of Texas versus White. Okay. So, according to the US Supreme Court in 1868, "acts necessary to peace and good order among citizens such for example as acts sanctioning and protecting marriage and the domestic relations, governing the course of descents of property [sic], regulating the conveyance of transfer of property, both real and personal, and providing remedies for injuries to person and estate, and other similar acts, which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual, though unlawful government; and that acts in furtherance or support of the rebellion against the United States, or intended to defeat the just rights of citizens, and the [sic] acts of like nature, must, in general, be regarded as invalid and void." So, what you start to see here is an application of necessity, the doctrine of necessity. So, the place doesn't blow up, they're talking stabilization, stabilizing, not change, but still holding people accountable if they're in a rebellion. So, when we speak of international law, what are the sources of international law? International law, these laws are not derived from legislation, right. From legislators passing a law, that's national or municipal law. Sources of international law which exists between countries, number one, treaties, international custom, general principles, international and national judicial decisions, scholarly writings. Now, much of international law is understood through scholarly writings, because in scholarly writings by recognized experts, they bring in treaties, they bring in principles, they bring in custom, and they provide a narrative. And that's why academic scholars is a major source of not just international law but to understand what that law is and how it applies. You folks will be having a copy...not yet. So, they already have? So, everyone should have a copy of this book, second edition Eyal Benvenisti, *The International Law of Occupation*. He is the foremost authority on occupation law. And we're going to cover Chapter 4 which is the copy you folks have. So, under Chapter 4, *The International Law of Occupation*, Article 4.1.1, Article 43, a seeming legal paradise. The occupant is expected to fill the temporary vacuum created by the ousting of the local government and maintain its basis of power until the conditions for the latter's return are mutually agreed upon. The administration of the occupied territory is required to protect two sets of interests. First, to preserve the sovereign rights of the ousted government and second to protect the local population from exploitation of both their persons and their property by the occupant. Under Article 4.1.2, the failure to set up military administration to administer the laws of the occupied state would not relieve the occupant of its duties under the law of occupation. After all, the definition of occupation does not depend on the establishment of an occupation administration. Article 42 provides whether or not territory is occupied, which says it is occupied when the occupier is in effective control of the territory of the occupied state. So, once an entity called the occupying power is in effective control, we'll spring Article 43 to administer the laws of the occupied state. That's what Benvenisti is referring to. But the fact that an administrative system was not established does not say you're absolved from establishing it, it just shows the violation. And what we have here since 1893, there has been no administration established by the US Military to administer Hawaiian Kingdom law as of January 17, 1893. Just like how they did in the Mexican-American War of 1848, just

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like they did in the Spanish-American War of 1898, set up administrations to administer the laws of the occupied state, they didn't do that here. They just let the insurgents continue in control. Next article, the human rights dimension. Civil and political rights. Now, civil rights are rights protected under the constitution of that particular country. That's civil rights, and civil rights apply to all people within the country, right. But political rights are rights to participate in government, whether to run for office or for election or to be an elector. Okay. So, civil and political rights receive extensive treatment in human rights instruments, yet are ignored in the Geneva Convention. If the political process is lawfully halted for the duration of the occupation, the suspension of political rights seems to be a sensible consequence; however, the law of occupation does not prevent the halting of political rights like participation in government by its nationals. An example would be Japan. When Japan was occupied from 1945 to 1952 under the military government headed by General MacArthur, Japanese citizens were allowed to continue to vote for members in the Diet. So, there are exceptions to the rule. The next article, the scope of the occupation administration. The occupant is granted the power to possess and administer property belonging to the occupied state, subject to the duty to safeguard the capital of these properties and administer them in accordance with the rules of usufruct. That is a general principle of international law. Usufruct is the use of property without destroying it. An example of a violation of usufruct, Kahoolawe. That's a direct violation of the law of occupation. The widening scope of policy making by...no sorry, the widening scope of policymaking by the occupation administration raises worries about a seeming state of normalcy within which an unaccountable occupant operates without a critical review of its measures. What you basically have right there is what took place since 1893, there was no accountability. And how you remove accountability, denationalize the people so they don't even know what's going on. But now that critical review is now front and center, because people have now become educated on what's going on. Next article, the management of natural resources of the occupied state. The occupant may use some of those resources but must also protect them. Most critically, the occupant is authorized and in fact is required to assume control over natural resources in the area, protect them against overuse and pollution, and allocate them equitably and reasonably among various domestic users. Next chapter...I'm sorry, next section, the external relations of the occupied territory. Treaties, international obligations of the occupied state. From the perspective of the law of occupation says Benvenisti, it would seem that to the extent that public order and civic life depend on complying with formal international obligations and informal soft law like proclamations or executive orders, commitments, that the ousted government had assumed prior to the occupation. The occupant should regard itself as bound by those obligations. So, one particular obligation, treaty with Great Britain which now applies to New Zealand and Australia as part of the British Commonwealth. Under the treaty, those ships should be able to come directly into the harbor, offload goods, and head off to the United States to offload goods in the port of Los Angeles. The Jones Act which is an American law doesn't apply to Hawaii 'cause it's limited because of US legislation. So, that's one example that Maui might find itself with an Indonesian ship coming in where they know their rights under the treaty which is the former Dutch treaty and they're going to do trade. What you're talking about there is free trade. We don't have free trade in Hawaii.

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There's a dependency because of the Jones Act, but that's an American law, that's not a Hawaiian law. International obligations are treaties, and soft law are called policies. The next article of Chapter 4, the occupants forward-looking and post-occupation obligation. So, it's not just what the occupier must do now or can do or could do but looking at the effects that it would have when the occupation comes to an end. Present tense obligations of the occupant toward the occupied population should be interpreted as also entailing obligations to ensure as much as the occupant possibly can the continuation of public order and civil life, during and immediately after the termination of the occupation and the transition to indigenous rule. Now that word indigenous rule should not be confused with ethnicity as you would involve it with...associate it with indigenous peoples. Indigenous rule under the law of occupation refers to the original government, because indigenous by definition is something that originated in a particular region, whereas aboriginal by definition is the first to arrive in a region, right. So, aboriginal is applied to people, indigenous under international law is applied to the original government that was illegally overthrown. And then the section on stability versus change. Benvenisti's approach on the level of respect for the legal status quo. The occupant must not seek to effect long-term changes that would complicate the reestablishment of authority by the legitimate government. For this reason, for example, institutional changes that modify the indigenous political institutions must in principle be avoided. Article 64 of the Geneva Convention, the occupant may subject the population of the occupied territory to provisions which are essential to enabling the occupying power to fulfill its obligations under the Geneva Convention which protects the civilian population, and to ensure the security of the occupying power. Under human rights, complying with human rights obligations also imposes a rather rigorous legislative discipline on the occupant. Compliance with human rights obligations stipulates adherence to the rule of law. And the term rule of law is the restriction of the arbitrary exercise of power by subordinating it to well defined and established laws. The rights and duties of the occupied government or the ousted government, Benvenisti says the occupant should give effect to the sovereign's new legislation as long as it addresses those issues in which the occupant has no power to amend the local laws, most notably in matters of personal status. Remember that portion I spoke about Texas versus White, that's an example right there. Nationals of the occupying power. With regard to nationals of the occupant--according to Benvenisti--who are not related to the latter's forces--the military--the legal situation is not as clear. Some authorities support the territorial principle according to which the state has no jurisdiction to prescribe, adjudicate, or enforce its laws over its citizens in the occupied area. So, what that means is American citizens who have come to Hawaii who are not tied to the military and are here must comply to the territorial principle of being subjected to Hawaiian Kingdom law, not American law. That's what that means. Accordingly, these nationals are subject to the jurisdiction and laws of the occupied state, not the occupier's laws which are limited to its own territory. So, what we have there is a backdrop of how we're going to come to one particular place on how can this Committee continue to operate. So, I'm not here to try to get you to stop. That violates my rule of understanding called stability. I'm just here to explain an option that can be done. So, when we speak...when Benvenisti speaks of the occupying power, it presupposes that an administration has already been set up by the occupying state to administer the laws

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of the occupied state. It presupposes that. We don't have that because United States did not set up an administration in accordance with the law of occupation. So, we have to look at that, that's the genealogy, in order to understand how to provide a remedy that is still in compliance with the rule of law and without creating chaos. This is all within what I call the doctrine of necessity, and you know what they say necessity is, the mother of all inventions as long as it's within the rules. We used to operate that all the time in the Army. A Private can become a Lieutenant by necessity even though he's not a commissioned officer, assume the chain of command. He is called an Acting Lieutenant, but he will be held vicariously liable as if he was an Lieutenant. That's when the Army, a lot of, you know, privates say I not taking the chain of command. No, no, date in service, who's been in the longest, you take it. You don't take it, you in trouble. You're forced to take it. You got to deal with crisis. This is where we are. So, let's embrace the doctrine of necessity. So shoot for the stars but make sure your feet are firmly grounded is the key. So, what is the legal status of the County of Maui? And I think some of you, if not most of you, might be a little shocked as far as what that history is. And I say that in a actually good way. So, the Hawaiian Kingdom as an independent state was recognized in 1843. In fact, it used to be British. Hawaii used to be part of the British empire. You folks ever notice that Union Jack on the flag? That wasn't a British colony, actually Hawaii was a protectorate. Kamehameha I joined the British empire in 1794 in an agreement with Captain Vancouver. We were actually British back then, not by nationality, which is different from English which is ethnicity, right? British applies to a territorial area called Britain, right, that's how you know it's a nationality, not an ethnicity. Well, in 1843 we became Hawaiian again, right, and it had a government, a constitutional government, very progressive. Its laws were very progressive, but that government was unlawfully overthrown in 1893, and we also need to know and understand that by overthrowing a government in international law, you didn't overthrow the country. The country still exists. That's why you have obligations on the occupier who overthrew the government, and that's what we covered in Benvenisti's law of occupation. Now, the legal status of the provisional government of 1893, well let's go to what President Cleveland concluded their status was. "He said to the US Congress the provisional government was neither a government de facto nor de jure." Okay. It didn't exist either in fact as a successful revolution or by law. He stated, in this state of things if the Queen could have dealt with the insurgents alone, her course would have been plain and the result unmistakable. So, clearly Cleveland is referring to those in the provisional government not as a government but as insurgents. And then his conclusion to the Congress, I believe that a candid and thorough examination of the facts will force the conviction that the provisional government owes its existence to an armed invasion by the United States. These are trigger words in international law, invasion, overthrow. What did not come in was the law, the law of occupation. Now, in 1894, the United States Foreign Relations Committee chaired by Senator Morgan, they sought to vindicate Ambassador John Stevens from criminal liability, and the reason why because ambassadors, in this case the US Ambassador John Stevens in Hawaii who ordered the landing of the troops, okay, and illegally recognized these insurgents, he had diplomatic immunity. And the international rule is that is not given amnesty, no, the country of the...excuse me, the government of the country that was on the receiving end of that illegality could not prosecute that person, he had

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diplomatic immunity. But it is the duty of the sending state to prosecute. So, President Cleveland basically indicted John Stevens through the Blount Report. And also Captain Wiltse, the head of the, Captain of the USS Boston. So, their job, the Foreign Relations Committee was to vindicate so that John Stevens does not get prosecuted. And the proceedings started in January of 1894 which came to be known as the Morgan Report. A lot of people confuse the Morgan Report with the Blount Report. Well, basic Civics 101 is the Blount Report came out of the Executive Branch that represents the United States in international relations. The Morgan Report came out of the Legislative Branch limited to US territory. One does not trump the other, in fact they are separated by effect. On January 20, 1894, Stevens committed perjury before that committee. He actually committed perjury 'cause a lot of people claimed the Morgan Report vindicates Stevens, actually he lied. Now, we didn't know he lied until three years ago. I'm going to show you the smoking gun. When asked by the chair of the committee, Senator Morgan, if Stevens recognition of the provisional government was for the purpose of dethroning the Queen, 'cause see that's the illegality, that's violating the duty of non-intervention. Stevens responded not the slightest, absolute non-interference was my purpose. Now, the committee believed him, at least a majority of them. All the Democrats said no, we don't believe you because the Blount Report clearly shows facts that counter that. Well, W.O. Smith, remember that guy? William O. Smith, he was the Attorney General for the so-called provisional government, the insurgent. His family gave paperwork that was in their family to the Hawaiian Mission House. Ron Williams, a Ph.D. in history went through every document, and that document that I'm going to show refutes this. So, this is from Stevens in the report, in part of the Blount Report. The late Queen and cabinet accordingly yielded unconditionally, and the police station was turned over to Commander Soper and Captain Ziegler with 40 men from Company A. Mr. Wilson, the marshal of the Hawaiian Kingdom made a short address to the police force assembled in the station telling them that resistance was no longer feasible. The provisional government sent notifications of the situation to the representatives of foreign powers. The following answer to the request for recognition was received from his excellency John Stevens. Stevens wrote, a provisional government having been duly constituted in the place of the recent government of Queen Liliuokalani and said government being in full possession of the government building, the archives, the treasury, and in control of the capitol of the Hawaiian Islands, I do hereby recognize the provisional government as the de facto government of the Hawaiian Islands. So, that's the source of authority of the provisional government. The insurgents who by the way President Cleveland said they were neither de facto nor de jure. Here's the smoking gun from the Hawaiian Mission House. You got to be careful because of documents, yeah, they should have burned this. This is from the...on the letterhead of the US Legation. January 17, 1893, Judge Dole, I would advise not to make known of my recognition of the de facto provisional government until said government is in possession of the police station. That means the provisional government was not in control, but yet that proves US ambassador intervened in the internal affairs of the Hawaiian Kingdom. He committed perjury. So, I call 'em a perjurer in absentia. But that pretty much undermines the Blount...the Morgan Report. It was political. Cleveland's message is the key 'cause the President represents the United States in foreign relations, not the Foreign Relations Committee. So, the authority of the provisional government stems

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from this proclamation made by insurgents. It states here in the proclamation that all officers under the existing government are hereby requested to continue to exercise their functions and perform the duties of their respective offices with the exception of the following named people, the Queen and her cabinet and Marshal Charles Wilson of the police force. Everyone in government was told to stay in place. All that was taken over was an entire governmental infrastructure, it's called a regime change, not a complete takeover of a new government. It's like taking a pilot out of the cockpit, putting insurgents in it and the US Marines are protecting them. And then the second act of this provisional government relating to official oaths, all persons holding office under or in the employ or service of the government shall take within 20 days after the publication of this act the following oath: I hereby solemnly swear that I will support and bear true allegiance to the provisional government of the Hawaiian Islands and faithfully perform the duties appertaining to the office or employment of John Smith. Did you know that you're not supposed to sign oaths of allegiance under the laws of occupation? That's a violation of the law of occupation. And the provisional government is a proxy of the United States admitted to by the United States President. Now, that oath of office, that oath of allegiance was actually the subject of the Royal Hawaiian Band. And you folks heard the song, I know, but I don't think you made the connection most of you. And that song was Mele Aloha Aina, the patriot's song. The Hawaiian, Royal Hawaiian Band refused to sign the oath of allegiance. They were fired, no job. One of the leaders of the band went to Mrs. Prendergast, a lady in waiting for Queen Liliuokalani and asked her to compose a song of their defiance. It was referring to this oath of allegiance that government officials were forced to signed. And this is the song and I'm sure you folks, some of you may not have known the English translation. Here we go.

. . . (Mele Aloha Aina sung in Hawaiian with spoken English translation). . .

Kaulana nā pua a'ō Hawai'i
Kūpa'a ma hope o ka 'āina
Hiki mai ka 'elele o ka loko 'ino
Palapala 'ānunu me ka pākaha

Kaulana nā pua a'ō Hawai'i
Famous are the children of Hawaii
Kūpa'a ma hope o ka 'āina
Ever loyal to the land
Hiki mai ka 'elele o ka loko 'ino
When the uncaring messenger comes
Palapala 'ānunu me ka pākaha
With his greedy document of extortion

Pane mai Hawai'i moku o Keawe
From the Big Island, Keawe answers
Kōkua nā Hono a'ō Pi'ilani
Help also comes from Piilani
Kāko'o mai Kaua'i o Mano

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Mano's Kauai lends support
Pa'apū me ke one Kākuhihewa
And so we descend to Kākuhihewa

'A'ole a'e kau i ka pūlima
No one will write his name
Ma luna o ka pepa o ka 'ēnemi
On the paper of the enemy
Ho'ohui 'āina kū'ai hewa
With its sin of annexation
I ka pono sivila a'o ke kanaka
And the sale of native civil rights

'A'ole mākou a'e minamina
We do not value
I ka pu'u kālā o ke aupuni
The government's sums of money
Ua lawa mākou i ka pōhaku
We are satisfied with our stones
I ka 'ai kamaha'o o ka āina
The astonishing food of the land

Ma hope mākou o Ma Lili'ulani
We back Lili'ulani
A loa'a ē ka pono o ka 'āina
Who has won the rights of the land
Ha'ina 'ia mai ana ka puana
And now we tell the story again
Ka po'e i aloha i ka 'āina
Of the people who love their land
We will not rest until we have our lands

Ma hope mākou o Ma Lili'ulani
A loa'a ē ka pono o ka 'āina
Ha'ina 'ia mai ana ka puana
Ka po'e i aloha i ka 'āina

MR. SAI: That's a heavy song. You know with a lot of people unless you speak Hawaiian can't understand the lyrics. I remember going through Safeway in Kaneohe and this song is playing over the speaker and I'm going nobody has any clue. Don't sign the paper of the enemy with its sin of annexation and loss of civil rights. That wasn't talking about the four winds of Waikapu. Very political that song. So, mai poina, we cannot forget. We are now only recovering so we're actually going back to see things how they saw it and that is what is informing us today on continuing where they left off to address this crisis which has gone on for over a century. Mai poina, don't forget. So, then the provisional government changed its name in 1894, these insurgents, to the Republic of Hawaii, but they're still insurgents. Then the authority of the Territory

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of Hawaii was actually an act of Congress. It's a municipal law passed by the United States and it says in Section 1, under definitions, that the phrase "the laws of Hawaii" as used in this act without qualifying words shall mean the constitution and laws of the Republic of Hawaii. So, clearly there is a direct link of the territory to the insurgents. But what is important though, it's the governmental structure that maintained itself, they just renamed it. It's actually still the Hawaiian Kingdom governmental structure. And in Section 2, under Territory of Hawaii, it says the islands acquired by the United States of America under an act of Congress entitled Joint Resolution to Provide for Annexing the Hawaiian Islands to the United States shall be known as the Territory of Hawaii. Well, now we know that a joint resolution didn't annex anything 'cause it couldn't. So, the whole territorial act was relying on an American law called the joint resolution. You take out that keystone from the bridge, collapse. And then in 1905, comes the county governments under the County Act. I did not know the genesis of why the counties were created. I knew though that the county governments under State law are very autonomous. It's almost unheard of in other states of the union. It's almost like they can run their own within their rules, they're not subject to approval by the Governor or the Legislature. So, I shared this with a friend of mine, Professor Nicholas Schweitzer from the University of Hawaii. He says, Keanu, you don't know the formation of the county governments in Hawaii? I said enlighten me please. 'Cause I couldn't find it in the Territorial Act, the counties, it's actually a legislative act, okay. The Home Rule Party was a political party which combined members of the Hawaiian Patriotic League and the Hui Kalaiaina. These were royalists. The ones who signed the signature petition against annexation and succeeded, that's who the Home Rule Party is. Because the Territorial Act allowed all people to vote, right, because the Republic was keeping the Hawaiian royalists out, right, they only want their own insurgents involved. Well, the Territorial Act allowed them all to now participate. It was actually John Wise, Prince Kuhio, and others who came up with the idea that since the territorial legislature are all...majority were Home Rule Party people, Hawaiian royalists, in order to deal with the fact that the Governor under the Territorial Act is appointed by the President, they always had no means of redress. That's why Kuhio created Hawaiian Homes at the Federal level to get it out of the territorial control. Well, they also created the counties and this bill was submitted called the County Act of 1905, and it was vetoed by Governor Carter. He was the successor to Dole who was the Governor before him appointed by the President. But that veto, I mean that veto was overridden by Hawaiian Legislature. And anyone who runs the counties had to answer to the Home Rule Party that elected them. That is how they took control and resisted US control. Under the 1905 Act, the heads of the counties would be elected by the people who at the time were Hawaiians. It was resistance by Hawaiians to US territorial control. That was interesting, I didn't know that, but it makes sense. The first two governors...sorry, the first two mayors of the City and County of Honolulu, well, the name was changed from the County of Oahu to the City and County of Honolulu were royalists. The third mayor, Johnny Wilson, Johnny Wilson was the son of Marshal Charles Wilson, head of the police force of the Hawaiian Kingdom. But once the influx of American citizens began to come to Hawaii, their population of 1,900 according to the 1890 Census, by 1950 it exploded to 400,000. Now, the counties were taken up by others who would have the majority, but yet its origin was resistance and give voice to the Hawaiian people and their rights.

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Interesting, yeah? Now, the 1959 Statehood Act, Public Law 86-3, that's another American law passed by the US Congress, limited to US territory. And the reason why it's limited to US territory, 'cause the US Supreme Court says it is. It says neither the Constitution nor the laws passed in pursuant of it have any force in foreign territory, so the key is Hawaii had to be a part of the United States in order for Congress to pass these laws. But yet Congress was relying on the joint resolution of annexation as a basis of passing the laws. But the joint resolution is no different than the Statehood Act, because they're both Legislative laws of the United States which have no force in foreign territory. And then the court says in operations of the nation in such territory must be governed by treaties, international understandings and compacts, and the principles of international law. This is where the law of occupation kicks in and Eyal Benvenisti's Chapter 4. That's what the Supreme Court is referring to, and this is the most up-to-date law of occupation under international law. Now, in light of the United Nations human rights expert who sent his letter to three judges and other members of the Judiciary of the State of Hawaii in 2018, this independent expert says as a professor of international law, the former Secretary of the UN Committee...Human Rights Committee and coauthor of that book *United Nations Humans Rights Committee Case Law* and currently serving as the UN independent expert on the promotion of a democratic and equitable international order, 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--strange form because there's no administrative body administering the laws of the occupied state, that's how he's referencing it--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). This is from Geneva, Switzerland. This is...he's not from here but he's an international law expert that was appointed by the Human Rights Council with the United States as a party at that time, they appointed him as the UN independent expert. In fact, this man Alfred de Zayas is a professor at the Geneva Institute of Diplomacy, but he's an American. He's an American. He went to Harvard Law School but he got his Ph.D. from a university in Germany I believe. But his expertise is international law. So, he's saying exactly what I'm saying here, it's just I'm explaining it better. Important point, occupation does not transfer state sovereignty of the occupied state. We can look at FM 27-10, that's one of the manuals, field manuals used by the Army in Iraq and Afghanistan, The Law of Land Warfare. Section 358, occupation does not transfer sovereignty. Being an incident of war--got to keep in mind January 17...January 16th when the invasion occurred--being an incident of war, military occupation confers upon the invading force the means of exercising control for the period of occupation. It does not transfer the sovereignty to the occupant, but simply the authority or power to exercise some of those rights of sovereignty. The exercise of these rights results from the established power of the occupant and from the necessity of maintaining law and order, indispensable both to the inhabitants and to the occupying force. It is therefore unlawful for a belligerent occupant to annex occupied territory or to create a new state therein while hostilities are still in progress. Again, that cancels out the joint

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resolution of annexation from international law, but the US Supreme Court cancelled out the joint resolution under US Constitutional law. Annexation didn't take place. Under Section 362, necessity for military government. This is what Benvenisti was referring to in his Chapter 4. Military government is the form of administration by which an occupying power exercises governmental authority over occupied territory. The necessity of such government arises from the failure or inability of the legitimate government to exercise its function on account of the military occupation, or the undesirability of allowing it to do so. Okay. The nature of government. It is immaterial whether the government over an enemy's territory consists in a military or civil or mixed administration. So, the US Military can say they can create a civilian authority, not a military authority to administer the laws of the occupied state. Now, how you administer the laws of the occupied state, you take over the governmental infrastructure of that occupied state, you just taking over the head. What changed from 1893 was only the head. The entire infrastructure remained the same. So, we're getting to a point where how do we fix the problem that we're currently in? But I just got to give this genealogy, right? Veiled admissions of illegality. In 1988, US Department of Justice, Office of Legal Counsel stated regarding Hawaii's annexation by a joint resolution, it is therefore unclear which constitutional power Congress exercised when it acquired Hawaii by a joint resolution. Accordingly, it says, it is doubtful that the acquisition of Hawaii can serve as an appropriate precedent for a congressional assertion of sovereignty over an extended territorial sea. What is he saying in layman terms? The Congress cannot pass laws that go beyond its territory which includes the territorial sea, whether 3 miles or 12 miles. In 1994, the Intermediate Court of Appeals in State of Hawaii versus Lorenzo, Judge Walter Heen, the ICA stated, "The essence of the lower court's decision is that even if, as Lorenzo contends, the 1893 overthrow of the Kingdom was illegal, that would not affect the court's jurisdiction in this case." That was their position, so they denied the appeal. But Judge Heen added, however, the ICA admitted its "rationale is open to question in light of international law." And then the ICA also admitted "the illegal overthrow leaves open the question whether the present governance system should be recognized." That was back in 1994. Judge Walter Heen, who was the author of the opinion, actually was a member of my doctoral committee. And I know State v. Lorenzo from the Judge who wrote the opinion. And I told to him, I asked him on appeal back in 1994, if Kali Watson who was the attorney for Lorenzo at that time in the appeal, I said if Kali Watson, Judge, gave you my doctoral dissertation showing the existence of the Hawaiian Kingdom as an independent state, what would you have done? He told me I would grant the appeal and overturn the lower court's decision. I went really? He says I didn't know the difference he said between the state and the government, now I do. He knows international law. And that's what prompted the exposure with Dexter Kaiama and myself entering into these courts where I would serve as an expert witness that you saw earlier in providing this evidence. And when you provide this evidence, Dexter Kaiama, an attorney, an old-time attorney, he's not a young pup, Judge Hara, Third Circuit, Wells Fargo Bank versus Kawasaki. After defense attorney Dexter Kaiama presented irrefutable evidence of the Hawaiian Kingdom's existence, Judge Hara stated this--veiled admissions of illegality--what you're asking the court to do is commit suicide, because once I adopt your argument, I have no jurisdiction over anything. Not only these kinds of cases where you may

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claim either being a part of or being a Hawaiian, a citizen of the Kingdom, but jurisdictions of the courts evaporate. All of the courts across the State, from the Supreme Court down, and we have no Judiciary, I can't do that. That's from the transcripts. So, nobody's refuting because they can't, but they're exerting power. Now, who is the victim? Not Dexter, Dexter is the attorney, Elaine Kawasaki who's Japanese from Hilo. Has nothing to do with race, all procedures. And then in 2013, the US Supreme Court has to deal with this can of worms. In State of Hawaii versus Kaulia it says whatever may be said regarding the lawfulness of its origins, the State of Hawaii is now, a lawful government. That's a fiat. That's a proclamation. That's not based upon judicial evidence, it's a statement, which now has been used by other prosecutors and plaintiffs and judges and cite, no, deny...your motion to dismiss denied. And what you end up happening...what's ending...what's happening is you're racking up victims. That's what's happening, and there's a record of it. Victims, not just natives, just victims. People who are waking up to their rights asking a question get hit, house gone, incarcerated. This issue is due process, not whether or not guilt or innocence. Due process, rule of law. Well, the Hawaii Supreme Court, there was a judge from Third Circuit Hawaii, Judge Nakamura reported Dexter Kaiama to the Office of Disciplinary Counsel. Now, they're going to hit the attorney for making these arguments. Supreme Court in their decision, ODC versus Kaiama in 2017: We conclude the respondent's accusations--Dexter Kaiama--were not opinion based upon fully-disclosed facts, but were mere allegations, based upon tenuous legal analysis of broad statutory provisions which do not survive analysis. That's not what Judge Heen told me as a member of my doctoral committee. Then they go on to say, we conclude that respondent Kaiama's allegations imply a false assertion of fact which could reasonably be interpreted as stating actual facts about their target which are not true. They can't use evidence to say he's wrong, they use fiat, statements. That is not how a court is supposed to operate, they're not supposed to operate that way, but they do because this is what this information does. So, what you're seeing here is these officials of the State of Hawaii are not responding to the crisis, they are reacting to the crisis, and people are getting hurt through that reaction. And they're trying to use Dexter Kaiama and the attack against him by the Supreme Court on a censure to warn other attorneys don't bring this up in the court. Now, these actions actually show a pattern and a pattern of criminal conspiracy under the law of occupation called war crimes. Failure to provide a protected person a fair and regular trial. Now, it's just not the judge, it goes up the chain of command. These are the kind of issues, these facts that are irrefutable because they're pleadings are going to be under the purview of the Royal Commission of Inquiry on whether or not criminal liability can be held on certain individuals and whether or not their action or conduct called actus reus and mens rea, the guilty mind fits elements of the crime. One of the commissioners of the Commission of Inquiry from Europe is actually providing a legal opinion on the elements of war crimes in Hawaii and actus reus and mens rea and their connection. This is serious, this is not a game, but yet the records have already been met and people have been hurt. What I recommend, don't keep moving down that path of getting people hurt. Stop, pause, ask questions, even if the questions are hard. So, what is the State of Hawaii under international law? It's not my opinion, it's already been confirmed by international law experts that I confer with. The State of Hawaii is not an occupying power, established according to international law in order

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to administer the laws of the occupied state. State of Hawaii is a, it's a descendent, it's a successor of the provisional government which you just saw, which as President Cleveland said owes its existence to an armed invasion by the United States. Under the law of occupation, the State of Hawaii is an armed force, it's not a government. So, the key here is the State of Hawaii today is an armed force under international law. The key is how do you transform it into a civilian administration to administer the laws of the occupied state so it can be fixed, see that's the key, and whether or not international law allows that. And I can tell you it does. So, my job here is to explain how you folks can continue to do what you're doing within certain parameters, that's the key. So, this is how it's going to get fixed and I'll make a direct application of this on a proposal of a bill for an ordinance, okay, because we're in this Committee. So, I'm using it specifically for this Committee, not the entire State of Hawaii, right. So, the Council of Regency was formed in 1996 in similar fashion to the Belgian Council of Regency after King Leopold was captured by the Nazis in 1940. As the Belgian Council was established under Article 82 of the Belgian Constitution of 1821, the Hawaiian Council of Regency was established under Article 33 of the Hawaiian Constitution of '64 as amended. The Council of Regency is the successor to the government prior to its unlawful overthrow on January 17, 1893. It met the criteria of international law. That's why the Permanent Court of Arbitration could not deny its existence, it accepted it in the case Larsen versus the Hawaiian Kingdom. That's important. So, it was rule based, it wasn't just self-declaration, it was a process. Now, in order to address the problem, so I already covered the fact that the occupying power does not have sovereignty, right, and that's under the rules of the law of occupation. But the occupied state still has sovereignty and sovereignty is exercised by a government. Sovereignty is not the government, sovereignty is in the country, okay, governments exercise that authority. During occupations as Benvenisti pointed out, governments of occupied states formed in exile or within the territory of the occupied state can still legislate. They have that authority to legislate. And Benvenisti says the occupying power must apply that legislation if it's for the protection of the nationals or the people of the occupied state, meaning the occupier has to take it into effect. Right now it's just hanging there. Well, remember that Texas situation where they had to deal with marriages and conveyances of property, especially with the land use commission...committee, what is...what do you folks have to deal with, land titles, yeah, subdivisions, zoning. That's all based on title but yet title stopped in 1893, just like no title transferred during the civil war in Texas, and the Supreme Court had to come up and fix that and made that common law decision that it would recognize conveyances, lawful descents, and so forth. So, in line with the United States Supreme Court, the Hawaiian Kingdom, Council of Regency proclaimed provisional laws for the country, and you folks have a copy of that. So, the regency serving in the absence of the monarch and temporarily exercising the royal power of the Kingdom-- and this is all verbiage from Kingdom era law--do hereby acknowledge that acts necessary to peace and good order among the citizenry and residents of the Hawaiian Kingdom, such for example, as acts sanctioning and protecting marriage and the domestic relations, governing the course of descents, regulating the conveyance and transfer of property, real and personal, and providing remedies for injuries to person and estate, and other similar acts, which would be valid if emanating from a lawful government, must be regarded in general as valid when proceeding from an actual,

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though unlawful government, but acts in furtherance or in support of rebellion or collaborating against the Hawaiian Kingdom, or intended to defeat the just rights of the citizenry and residents under the laws of the Hawaiian Kingdom, and other acts of like nature, must, in general, be regarded as invalid and void. That needs to be taken into effect to create...to remedy the problem. That can't be denied. And that law also stated...the proclamation also stated that from the date of this proclamation, all laws that have emanated from an unlawful legislature since the insurrection began on July 6, 1887 to the present, to include United States legislation, shall be the provisional laws of the realm subject to ratification by the Legislative Assembly of the Hawaiian Kingdom once assembled, with the express proviso that these provisional laws do not run contrary to the express, reason, and spirit of the laws of the Hawaiian Kingdom prior to July 6, 1887, the international laws of occupation and international humanitarian law, and if it be the case, they shall be regarded as invalid and void. One particular law that will be invalid and void is what I mentioned earlier, the Jones Act. Jones Act doesn't apply here, that's an American law, plus it runs contrary to Hawaiian Kingdom law. It benefits the Merchant Marines of the United States, right. Another act that is invalid, International [sic] Revenue Service, IRS taxes. Those can only be taxed amongst the citizenry in a foreign state but cannot be applied in the territory of a foreign state. Hawaiian taxes called State of Hawaii taxes, County taxes are recognized, that's what that means. Now, how do we bring the State of Hawaii into a position of being an administration recognizable under international law? What I'm pointing out to you folks here is there is a narrative that I'm explaining through the law, I'm just making it simple but it's all law based. It's all based on the principle of rule of law and compliance given a dire situation. So, governments do have an inherent right to recognize foreign governments. You saw that with the US Ambassador John Stevens, giving de facto recognition to the insurgents, but they were supposed to have been successful, they didn't meet that criteria, so therefore they...that wasn't real. The Hawaiian Kingdom has that inherent right to recognize foreign governments, it does. So, on July 3, 2019 [sic], actually the council met and we had to discuss these issues and this is how the County --

CHAIR PALTIN: June 3rd.

MR. SAI: --and the State...

CHAIR PALTIN: June 3rd.

MR. SAI: Huh?

CHAIR PALTIN: June 3, 2019.

MR. SAI: Yeah, June 3, 2019. Yes. Did I say another date? Oh, I'm sorry. Mahalo, Chair. June 3, 2019. Now, therefore, we the acting Council of Regency of the Hawaiian Kingdom, serving in the absence of the monarch and temporarily exercising the royal power of the Kingdom, do hereby recognize the State of Hawaii, and its counties, as the administration of the occupying power whose duties and obligations are enumerated in the 1907 Hague regulations, the 1949 Geneva Convention, and

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international humanitarian law; and, we do hereby further proclaim that the State of Hawaii, and its counties, shall preserve the sovereign rights of the ousted government, and protect the local population from exploitation of their persons and property, both real and personal, as well as their civil and political rights under Hawaiian Kingdom law. Now, that's just the recognition of an entity, right. The key is are we authorized to actually do that? We actually are, and the Permanent Court of Arbitration verified, that we're actually a government, so it's not like it's a self-proclaiming, it's according to certain rules. Now, because of that, remember that 2013 Supreme Court decision in State of Hawaii versus Kaulia where it said, whatever may be said regarding the lawfulness of its origins, the State of Hawaii is now, a lawful government. Well, as of 2019, the proclamation of the Council of Regency, whatever may be said regarding the lawfulness of its origins, the State of Hawaii is now a lawful government, and all it needed was recognition. So, now how does this information apply to a bill for an ordinance coming out of the Committee? Okay. Well, the origin of land titles throughout the Hawaiian Islands all stem from Land Commission Awards and royal patents. So, this is a tax map assessment...tax assessment map with tax map keys, and if you notice, you see LCA, LC Award, all titles in Hawaii originate 1845. Here's a Land Commission Award. William Crowningbergh, Waikapu. From the evidence it appears, that the claimant, owning in right of his wife, a small land in Waikapu, by the name of Pilipili, exchanged the same for Pupahoehoe, in the year 1832; the land now claimed; and that he has continued to occupy the same in peace down to the present time. This title is made clear by the first rule of the board--this is the Board of Land Commissioners, board of commissioners to quiet land titles--and we do therefore award to the aforesaid claimant, William Crowningbergh a freehold title less than allodial--or in other words a life estate in the lands. What a lot of people need to realize is Land Commission Awards were not all fee simple, it included leasehold, life estates, and fee simple. Now, if it was a life estate, this person Crowningbergh will have to convert it into a fee and that's when you get a royal patent. So, all royal patents are fee simple that may have converted from a life estate. So, here is Crowningbergh's royal patent and if you look at the top it refers to Kuliana Helu 433. He converted his life estate into a fee simple title, that's what that royal patent means. But I want to draw your attention on what is in Hawaiian law a condition of all land title transactions. Reserving the rights of native tenants. Oh, wait, sorry, that's...oh. Koe ke kuleana o na kanaka koe nae na kuleana o na kanaka maloko. Reserving the rights of native tenants, that's a condition in all property, but that's in Hawaiian. Here is a royal patent in English to Robinson, you also have that provision, reserving the rights of native tenants, in English. What is the reserving the rights of native tenants? In Kekiekie versus Edward Dennis the Hawaii Supreme Court stated and this was by Judge William Lee, moreover, said the court, even if the King had not made this reservation--on the deed--the plaintiff's title would be good; for the people's lands were secured to them by the constitution and laws of the Kingdom, and no power can convey them away, not even that of royalty itself. The King cannot convey a title greater than he has, and if he grants lands without reserving the claims of tenants, the grantee must seek his remedy against the grantor, and not dispossess the people of their kalo patches. So, the rights are secured in constitutional law, right. So, that means native tenant rights are there which are not just how a native will derive land, a

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kuleana but also gathering. But all of this is defined by Hawaiian law, not American law.

CHAIR PALTIN: Dr. Sai? Do you mind if we take a ten-minute pause for the cause?

MR. SAI: Sure.

CHAIR PALTIN: Okay. So...

MR. SAI: My apologies. A ten-minute break.

CHAIR PALTIN: We're going to be in recess for ten minutes. The time is about 11 o'clock, we'll be back at 11:10. . . .(gavel). . .

RECESS: 10:59 a.m.

RECONVENE: 11:13 a.m.

CHAIR PALTIN: . . .(gavel). . . Will the Planning and Sustainable Land Use Committee meeting of June 5th come to order from the recess. The time is 11:13 and we'll continue the presentation.

MR. SAI: Thank you, Madam Chair. I was asked do you need to use the lua? I said this is me teaching class up at UH again, a graduate course. And I appreciate your folks' time to learn a lot of information that is being presented, and I hope I'm able to explain it in such a way that it appears comprehensive. That's the key. But I just have a few more slides, yeah, and then we'll open up for questions and answers. But I couldn't get to this point until I could cover all of that beforehand, right. So, also under Hawaiian Kingdom law with regard to land, it's not just subject to the rights of native tenants and how it is defined under Hawaiian Kingdom law, but it also applies to what is called the law of sepulture. Sepulture deals with burial sites, okay. So, in 1860 an act was passed by the Hawaiian Legislature for the protection of places of sepulture. Be it enacted, by the King, the nobles and representatives of the Hawaiian islands, in Legislative council assembled: if any person, not having any legal right to do so, shall willfully dig up, disinter, remove or convey away any human body from any burial place, or shall knowingly aid in such disinterment, removal or conveying away, every such offender and every person and accessory thereto, either before or after the fact, shall be punished by imprisonment at hard labor for not more than two years, or by a fine of not exceeding \$1,000. One thousand dollars in 1860 according to the inflation calculator is \$28,000. So, it shows that was a very serious issue back in the Kingdom, yeah, but that is Hawaiian Kingdom law. It was never repealed. Now, what runs inconsistent to Hawaiian law on burial, the Native American Grave Repatriation Act, that's a Federal law. That has nothing to do with Hawaii, that's the law that deals with burial sites. I think that would put a halt to people digging up iwi when they realize there's a law, right? So, how can and I say I'm just proposing in light of this information to be made as far as decisions by the Councilmembers themselves and the Chair with regard to this particular Committee on land use how to

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move forward under a bill for an ordinance. So, in this case Bill No.--Draft 2--127, Section 1 has a purpose clause and then followed by the normal understanding of amending the Code depending on what proposal you folks are taking under consideration. So, what I would recommend to make sure that there's a record so that the Commission of Inquiry knows full well that what the County is doing is in line with the law of occupation is to put in a purpose clause. Just a purpose clause, nothing else. Everything else flows normal. And a recommended purpose clause for consideration, Section 1, in accordance with international humanitarian law, Article 43 of the 1907 Hague Convention, IV, and Article 64 of the 1949 Geneva Convention, the Council is authorized to legislate--it should be for--for the territory of Maui County as a duly recognized administration of the occupying power, the United States of America. This bill for an ordinance is subject to the rights of native tenants and the law of sepulture. That's it. Something simple. And that is a record that if somebody looks at it from an international law standpoint, that fits the criteria of legislating. Now, this is strictly for this particular Committee and that's why I focused it on that, but it could apply to all of the ordinances or resolutions, because it is admitting that the County is authorized to legislate but within the confines of the Hague and Geneva Conventions and international humanitarian law. So, we say the law of occupation, the law of occupation is to administer the laws of the occupied state, not to administer international law. International law just says how you're supposed to administer the laws of the occupied state. So, there is a continuum that has started in 1840 and the legislative acts and constitutional provisions that still are relevant today. Now, if we were to take a look at the genesis as to the counties formations in 1905, it was a form of resistance against the United States territorial government for the benefit of Hawaiian subjects. That is now flipped, now the counties are not in a position of resistance but actually compliance, and it extends beyond Hawaiian royalists of the Home Rule Party to now protected persons which are all civilians irrespective of race, color, creed, or nationality that are residing in Hawaii right now.

. . .END PRESENTATION. . .

MR. SAI: So, that's what I have for my presentation, an example, but the main thing here that I want you to walk away with is having some understanding of what is international law. And the paperwork that I provided on the PowerPoint, the Councilmembers all have a copy of that, and I'm open to any questions that you folks may have with regard to what was presented. Or do I need your...

CHAIR PALTIN: I'll call the Members.

MR. SAI: Okay. I'm sorry.

CHAIR PALTIN: Member Lee?

COUNCILMEMBER LEE: Thank you, Dr. Sai, for coming again. And again, your presentation was very thought provoking, enlightening, but also disturbing because this is sort of like confusing information in a sense, yeah. For instance, and I'll give

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you a real quick for instance, you're suggesting that we adopt that type of language in some of our ordinances.

MR. SAI: Suggestion only.

COUNCILMEMBER LEE: Yeah.

MR. SAI: Yeah.

COUNCILMEMBER LEE: A suggestion. On the one hand, and then on the other hand you're also saying that our entire government is illegitimate. So, you know, I'm trying to figure out, you know, why would we even go to that extent when we have bigger fish to deal with, you know? And...

MR. SAI: That's a good question. Can I respond or do you want to have another question?

COUNCILMEMBER LEE: I rather have another question because that...because I really want to get to the heart of what we do before you start going with the other Members who I know are going to have a lot of questions, too, so I might lose my turn.

MR. SAI: Okay.

COUNCILMEMBER LEE: Okay. Thanks. Okay, one of our jobs, one of our important jobs is to review and approve or deny land use applications, you know, whether it's for housing or --

MR. SAI: Right.

COUNCILMEMBER LEE: --various uses, okay? Now, if you were to accept all of the assertions you made, yeah, we don't even have that authority. So, how do we deal with our job and our responsibilities going forward knowing that there is a huge question mark on whether or not we have that underlying authority?

MR. SAI: Right, no, good question. Good question. Councilman Lee, as far as what's disturbing about...I'm there. It is hard to fathom. Something that you believed all your life has just been flipped upside down, I understand that. In academia we call that cognitive dissonance, going back and forth because of new information, and it can only be processed through a particular lens that may not be capable of processing it which creates the dissonance. Like aargh, aargh, aargh, right, and then it then would lead to what is called confirmation bias, another psychological term that I just want to see things that confirm my own bias, my preconceived notion. So, it's a normal thing, it's okay. It's not disturbing to the effect that it changed our history, but it is disturbing in the fact that you're now being faced with it. So, when I speak about the status of the State of Hawaii, I'm not singling out the Maui County Council, I'm talking about the State of Hawaii and that is true. It can't be falsified. Remember that person who spoke about how that Hague proceedings affected him and ramifications? That was back in 19...no, actually 2001, that was a panel discussion held at the University

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of Hawaii. That person there was, his name is Allen Hoe. Allen Hoe is a very respectable person, he's a former judge, District Court judge and he's a current attorney. He's also a war veteran, purple heart. He's a LRP, long-range patrol. He and I, we talk military jargon and you know one thing that he told me, he told me how he was asked by other attorneys when he came home. He said, you know, you're talking about the Hawaii Kingdom still existing, the United States is illegally here. He told me an attorney said that to him. I said how do you reconcile your purple heart and your service in Vietnam? That was a really hard question given to Allen. Allen told me what he told that other attorney, this was his way of reconciling it, he said I was a mercenary and I was damn good at it, I survived. That was his way to address it. Now, Allen Hoe's son, Nainoa Hoe was one of the first casualties in the Iraq War. He's a Kamehameha graduate, got his commission from the University of Hawaii, and he got taken out by a sniper. Allen is very much committed to the veterans association, but he doesn't mince words on whether or not the Hawaiian Kingdom exists, he knows it exists. But everybody has a way to deal with the disturbing information and people have their own experience. So, that aside, the point is the State of Hawaii does not have lawful authority, it doesn't, and yeah, nobody can falsify that already. Now, whether people accept it, well, you saw what happened with the judges. Judge Hara said I'm committing suicide, I can't deal with it. The problem there is that's a record being made. Now, whether that conduct or action that Judge Hara stated on the transcript could be measured and tied to mens rea and actus reus which is conduct or action, that basically fulfills one of the elements of a crime internationally, that is evidence against him. I'm not saying it is right now, I don't know. That's what that legal expert in Europe is going to be providing, and he is the foremost expert on war crimes and genocide. That's who's involved with it. What I encourage people to do is don't say things, don't do things that might be used against you. Just best thing is ask a question, what about this. Ask Corporation Counsel, refute this, don't argue it. Can the United States be here legally, right? And don't say I want an opinion that says yeah, they can. No, no, explain and refute all of this information which is already out there, right. Now, as far as your second question, all the things that the Council has done, you are correct in saying it was all done without lawful authority, it was. Okay. But the law of occupation, that's why Benvenisti's Chapter 4 explains the rules so the Council of Regency is what made it legal, not the State of Hawaii. And the only way to make it legal like the Texas versus White situation, the Supreme Court after the occupation and during the civil war had to make the decision this is being done within the occupation. So, it's important to know that the authority to actually recognize and make law for the State of Hawaii was the Council of Regency which was already accepted at the Permanent Court of Arbitration, which has already been accepted as lawful by all these international law experts in Europe that joined the Commission of Inquiry. They would not step into something that's frivolous, they won't, not at that level. Now, what will come out of the Commission of Inquiry is investigating war crimes, violation of international humanitarian law and human rights. As long as people within the State of Hawaii stay away from that, they won't come under the purview of the Commission of Inquiry. That's the point that I'm making. So, if...because of what took place, actions were taken to fix the problem. Now, I'm not asking anyone here to outright believe me right now this is true. Question, do your due diligence, 'cause I've done my due diligence to

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make sure things can be done not just in exposing our situation but how to fix our problem given that we're not the ones from 1893. It's like we got left holding a bag and we're what now?

COUNCILMEMBER LEE: Yeah, Doctor, and precisely what I'm thinking. We cannot turn back the pages of history --

MR. SAI: Yeah.

COUNCILMEMBER LEE: --we cannot do that.

MR. SAI: Exactly.

COUNCILMEMBER LEE: Okay. I am a keiki o ka aina plus a woman so I have two strikes against me in a sense, right? Justices...injustices have been done to me as a Hawaiian and as a woman, but I'm not going to take that lying down.

MR. SAI: Yeah.

COUNCILMEMBER LEE: I'm going forward --

MR. SAI: Yeah.

COUNCILMEMBER LEE: --I'm not going to look back and try and change words that should have been used and not used. I think in order to help our people we have to move forward and look for positive ways to help each other. To concentrate on the past and try to fix the past where it is like almost overwhelming because, you know, we are the lowest form of government here. We don't have the power, we don't have the jurisdiction, neither does our State Legislators, yeah. It's on a much higher level what you're talking about, you know, war crimes and so forth. That's way beyond our jurisdiction. What we can do is help our people here, you know, find homes, find jobs, find their identities, find self-esteem. Those are the kinds of things I believe that we can do that are...that's kind of relevant, you know, it's relevant and important.

MR. SAI: Now, the presentation I gave actually fixed the problem for you folks to continue to do what you're doing. We're not going back to the past. Rules of international law were applied. You folks are now in a position where you just continue where you left off. That's what I came to. But it's just that you folks need to have some kind of record made that the Council after now is not the same Council before. That's really all it is. The change has been made. So, that's what I had to ponder on this, because after the first...up to the first presentation when the Chair asked me to present and this stemmed from Hawaii County Council trying to address this problem but it turned political over there, right. Jennifer Ruggles was demonized and stories made up, right. And she's a woman, right, but I'm not accusing that it's a feminine issue, but I'm saying it was very disrespectful no matter who it was, what took place. What Tamara, what the Chair asked was how do I continue to legislate without violating the law, and I said this is how. That's the second...that was the follow-up, how do you deal with

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now. So, you folks here are not...you're not put in a position where you have to grapple with this, it's already done. It's just now are you going to conform? And that is a choice that is made by individuals. But the law says there is no choice, but as a personal situation there is a choice. But that choice then could run afoul on criminal liability. That's what you don't want to do. When in doubt, stop, ask advice, and get advice from people who know what they're talking about with regard to a particular topic that is of particular concern. The thing about the Commission of Inquiry that I had to ensure as the head of the Commission of Inquiry is that it stood alone, its reputation was above reproach, that its members who are part of it have reputations and expertise above reproach, and it is unbiased, it is objective. That's the key 'cause you know all we have is the truth. All I'm doing is telling the truth. That's all.

COUNCILMEMBER KING: Dr. Sai?

CHAIR PALTIN: I'd like to recognize Chair King has a question as well.

MR. SAI: Yes.

COUNCILMEMBER KING: So, I wanted to get clarification because I kind of, I feel like what we're doing is we're learning from the past so that we can go forward. And I appreciate...I wanted to get some more details on the Council of Regency June 3rd event. Did you...is there anything in the paperwork that you gave us that talks about that? Because that was the decision...

MR. SAI: The provisional...

COUNCILMEMBER KING: Right, that was the provision that you made that accepted our current --

MR. SAI: Yeah.

COUNCILMEMBER KING: --form of government. But I don't...I didn't see anything in here that...

MR. SAI: Yeah, the proclamation should be in there.

COUNCILMEMBER KING: Okay.

MR. SAI: You have a copy of that.

COUNCILMEMBER KING: Okay. Is that the one that...well, they're all...they all have the same, today's date.

MR. SAI: That one should be eight pages.

COUNCILMEMBER KING: There's several proclamations.

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MR. SAI: It should be the one with most pages.

COUNCILMEMBER KING: Oh, okay. That, there's that. Is it this one? I'm trying to keep them in order that you were talking about them, but...is that the one? They're not titled, so that's...I think I have it but they're just not all...they're just not titled.

MR. SAI: Next one, okay.

COUNCILMEMBER KING: Okay. So, anyway, if you could kind of go into detail on...because that was just two days ago, right, June 3rd?

MR. SAI: Oh, the recognition? Sorry.

COUNCILMEMBER KING: Yeah. The recognition --

MR. SAI: Sorry. No.

COUNCILMEMBER KING: --is what I was talking about.

MR. SAI: No, no, no. Yeah.

CHAIR PALTIN: And just a message from our friends at *Akaku*, they can't see the Members, Dr. Sai, if you could step to the side for the cameras to get the Members.

MR. SAI: I'm sorry.

COUNCILMEMBER KING: Okay. So, I just wanted to kind of clarify exactly what happened in that --

MR. SAI: Perfect.

COUNCILMEMBER KING: --Council of Regency. And because my, because in my take on what you're telling us today is that actually probably the County government is the most legitimate form of government. It was...the Council was created by...

MR. SAI: The counties.

COUNCILMEMBER KING: Right, the counties are the most legitimate form of government, but I'm trying to reconcile that with how we got here as far as the election, you know, which is --

MR. SAI: Right.

COUNCILMEMBER KING: --a US form of...

MR. SAI: Okay, so the first question addressing the County Act of 1905, right?

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COUNCILMEMBER KING: Right.

MR. SAI: That was a Legislative act which is an extension of American municipal law. What I was speaking to was the genesis behind the act where people from the Home Rule Party who were the majority of the elected officials in the Legislature needed more home rule, they needed to have a say in their area. So, they identified these five counties, right. One of them is Kalawao, okay. Now, that was enacted by the Legislature despite the veto by Governor Carter. So, it is a part of a legislation which means it's not legal, it's still an extension of the United States through the territorial legislative body, yeah. The point that I was making was the genesis of it, by Kuhio, Prince Kuhio and John Wise. It was to resist within the system 'cause that's all they had, right. Now, when you look at it on a broader sense, it's still a municipal law of the United States via the territory that was established by Congress. So, it's still affected by the US Supreme Court where the Constitution and laws emanating from it don't have any extra territorial force. Okay, so that's why the Council and the State and anything under US municipal law cannot exist in an occupied state. So, then we get to your question now regarding the proclamation. Okay, so --

COUNCILMEMBER KING: Right.

MR. SAI: --that question.

COUNCILMEMBER KING: So, that question was because you referred to it in one of your slides, it was just a couple days ago, June 3, 2019, that that was the proclamation that accepted this form of government. Or am I...

MR. SAI: Recognized it.

COUNCILMEMBER KING: Recognized it.

MR. SAI: Right, because under international law, governments whether in exile during occupation or in situ which is in the territory, still has that capacity to recognize foreign governments --

COUNCILMEMBER KING: Right.

MR. SAI: --right, for diplomatic purposes, but it doesn't preclude a government from recognizing for international law purposes an administration under the law of occupation. That, that's...that was the basis of the proclamation. Now, the criteria for an administration of an occupying state within an occupied territory is not a question of legitimacy but whether or not it is tied to an occupying power. Obviously, the State of Hawaii is tied to an occupying power, it was created by US Congress. Now, the criteria under...for international law purposes says that administrations of an occupying state, there is a requisite on effective control, and in that proclamation it addresses Article 42 of the Hague Convention. It's also what Benvenisti refers to in the international law in that chapter. It's part of the law of occupation. So, if you are...if an entity other than the occupied state's government is in effective control

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because of occupation, they have a duty to administer the laws of the occupied state under Article 43 of the Hague Convention. That's the follow-up. Now, remember that point that Benvenisti stated that I had on the monitor, the PowerPoint, Benvenisti says that the law of occupation still applies even if the occupier did not set up an administrative body, and that's exactly what happened here, they didn't set one up in 1893 and that's what led to where we are now. But the law of occupation does allow for an entity that is in effective control of territory which the County is in, in effective control of the three islands, that meets the requirement on whether or not it can be recognized as an administrative body for the occupying state. That's not speaking on behalf of any other county or the State, it's just what the County Council has. So, it had to be addressed in order to allow the Council to move forward. It had to be given authority recognizable under international law, not American law, and that's what the proclamation was about.

COUNCILMEMBER KING: That's what this proclamation is?

MR. SAI: Yes.

COUNCILMEMBER KING: Okay. And that...I mean I just...I guess I'm grateful to you for doing that, but I'm surprised that we didn't see anything about this, you know, on the news or, you know. It seems like a big deal.

MR. SAI: Hey, the Permanent Court of Arbitration, Larsen versus Hawaiian Kingdom, it was nowhere in the news. That was a big deal back then. Even Allen Hoe said that was a big deal, but nobody heard about it. That's why it was almost like...even with Perfect Title when we're coming out of the reality of land titles which is now...which now makes perfect sense. Back then they made up stuff saying we're telling elderly people don't pay their mortgages, they manufactured everything. I remember...okay, here's a story. I remember...you remember Barbara Marshall --

COUNCILMEMBER KING: I do.

MR. SAI: --from Action Line?

COUNCILMEMBER KING: Yes, I knew her.

MR. SAI: Barbara Marshall from Action Line who became a Councilmember for the City and County of Honolulu. Barbara Marshall was looking into scams, right. So, Channel 2 News, she comes over to Perfect Title and we're on the corner of Merchant and Richard Street, just a hop, skip, and jump from Title Guarantee, just across from Hawaiian Electric. She comes in 'cause she went to visit John Jubinsky from Title Guarantee, he was the legal counsel for Title Guarantee that started the propaganda, getting media to portray bad stories regarding Hawaii...regarding Perfect Title and telling people that we're...that we're telling people to don't pay their mortgages. So, here comes Barbara Marshall, comes into the office, after coming from John Jubinsky's office, she's very confident with what she thinks she knows. She gets me on camera and she goes are you telling people don't pay their mortgages? And I said

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absolutely not, because you don't pay a mortgage, you pay a loan secured by a mortgage. She looks at me, what? No, a mortgage is collateral, it's called a security instrument, look on the document. You mortgage your property to the bank to secure the loan. With or without the mortgage, you owe the money. And I showed her the dictionary definition and she kind of was shocked and her cameraman was laughing 'cause I'm looking at him. And I said we're telling people that there's a defect in title and to file a claim with the insurance company. Let the insurance company refute this evidence. But they were shifting the topic so that evening on Channel 2 news, I wanted to see if Barbara Marshall was going to get it right, sure enough she doesn't. She says Perfect Title is telling elderly people don't pay their mortgage, and Joe Moore calls me a charlatan. Yeah, a charlatan. And I have to admit I went what's a charlatan? I had to look it up, so I picked up the dictionary, it's a shyster, wow. That's not what happened with Barbara Marshall. And then all of a sudden non-stop. So, this information that is not being brought out in the news, there's a...it's a pattern. Now, I have to admit Maui no ka oi, *Maui Time* weekly article that covered the first presentation was the best article I've ever read regarding this information. It was unbiased, it was objective, and just reporting the facts. It wasn't taking a position and I thank...I've never met this reporter, Axel Beers which is a great name, Axel Beers, mahalo nui. So, in the beginning and that's why I needed to share my story, because a lot of people share stories about me that they think they know when they don't. So, when I presented my story here, I was always here to fix the problem. I was never here to exacerbate it and that's my military background. My family were not activists. My family are so conservative. You know my Auntie Marlene is a singer, you know. I served in the military. My uncles are police officers, police chiefs. My son is a police officer in Honolulu. My son works at Bank of Hawaii. I have a granddaughter, and I teach this stuff. So, I wanted to take this opportunity for you folks to actually hear my story, and this is how we could fix the problem. And I ask everyone to do their due diligence as well. Don't take for granted what I'm telling you here. But I think you can take confidence in what I'm saying based upon my experience, that's all.

COUNCILMEMBER KING: Can I just follow...so, where did that meeting take place that, the June 3rd, was that in Hawaii?

MR. SAI: Actually, in Hilo.

COUNCILMEMBER KING: In Hilo, okay.

MR. SAI: And...yeah.

COUNCILMEMBER KING: So, you know, I wrote down that 'cause I didn't see it, I didn't see where that paragraph right there, I didn't see where it was...I'm sure it's in one of these documents.

MR. SAI: Okay, no, that was just a recommendation on the PowerPoint.

COUNCILMEMBER KING: Yeah, I know that.

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MR. SAI: But you folks have a copy of the PowerPoint.

COUNCILMEMBER KING: No, I know that. Yeah, okay, so I know that you were recommending that that go into the bills that we're...

MR. SAI: As a purpose clause.

COUNCILMEMBER KING: As a Section 1 for sort of a standard language. I did want to point out that the bill that you were referencing was not a bill that would come out of this Committee because it was --

MR. SAI: Oh, okay.

COUNCILMEMBER KING: --an environmental bill but that's okay, it's a good bill.

MR. SAI: Okay.

COUNCILMEMBER KING: But is this existing anywhere right now or are you...is it a recommendation you're making to counties and State lawmakers?

MR. SAI: I'm...this...

COUNCILMEMBER KING: That...

MR. SAI: This text right here, Section 1 --

COUNCILMEMBER KING: Right.

MR. SAI: --was merely a recommendation on my part given the issue of land and the law of sepulture and native tenant rights.

COUNCILMEMBER KING: Right. No, no, I understand why, I just was wondering if it existed right now in any --

MR. SAI: No.

COUNCILMEMBER KING: --State Legislature or county legislature or if you are recommending...if you've done presentations to the other counties or the State Legislature recommending that.

MR. SAI: Well, actually, I'm not going to mention who but there is a Councilmember in Honolulu that I'm meeting with tomorrow because of this and...yeah. People are starting to ask the right questions. I also am planning to meet with somebody from the Legislature. See, the thing about this, we're all friends and family, this is not like I'm --

COUNCILMEMBER KING: Right.

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MR. SAI: --living on the other side of the world and I periodically show my face. We have family and friends, we have former teachers that are now legislators that...Sherriff's Department, Police Department. You know, I talk to everybody and I'm not outside, I'm so inside, but people don't want to talk 'cause they believe what they've been told. So, what I really appreciate and I thank the Council here is for me to give you folks an opportunity and for the public because it's being televised, this is the story of what happened. Now, where this goes it's up to you. I'm just here to inform, my job is to educate, that's part of this educational aspect of it. So, when I teach at the university, I pretty much was sharing what we teach and how you apply it. But I also am a part of the Council of Regency and that I work with other international law experts that have been convened to begin to look into these issues. The National Lawyers Guild which is an association of attorneys in America equal to the American Bar Association, they established the Hawaiian Kingdom subcommittee that provides legal support in order to ensure the United States complies with the law of occupation. It's out, this is not just here and I'm bringing this attention to all of you that everyone needs to make decisions, and it's important that the practical value of history is that it's a film of the past run through the projector of today onto the screen of tomorrow. We don't live in the past, the past is processed in order to make a decision, and that's where it's at. So, the word...the Hawaiian word for future is ka wa ma hope, wa o manawa is time, ma hope is backwards. So, ka wa ma hope literally means the future is the past. That doesn't mean you live in the past. That's the experience you have to make decisions to go forward, then you can imua, but you have to hope which is what we were doing going over the past in order to capitalize on successes and learn from mistakes. And Bruddah Iz, remember Israel Kamakawiwoole, his CD, *Facing Future*. Did you know that's ka wa ma hope? All you see is his back and a big drum, a big pahu. What he's doing is saying in order for him to face the future he's got to face the past. That's what informs him to move into the future. We don't live in the past, we are a product of the past and we move forward and thereby we keep making history that others will learn from. That's how it works.

CHAIR PALTIN: Dr. Sai, I have a question. Your PowerPoint points to many source documents and are these documents available to the average layperson to search for? And where are examples of these repositories of the original documents? For example, President Cleveland's comments about the insurgents annexation petition, et cetera.

MR. SAI: Yeah, that's actually in the executive documents of the United States Congress. December 18, 1893, the President's message to Congress. So, that's where the insurgency term comes from, President Cleveland. But that's online. If people want to have access to these records, most of them...please visit hawaiiankingdom.org, so one word, hawaiiankingdom.org. And there's laws, treaties, you actually see the original documents. And it's constantly being updated. Now, for updates on what's going on from a blog perspective, you can visit hawaiiankingdom.org/blog and that's more current events, what's taking place. Yeah.

CHAIR PALTIN: Could they also get it from the Library of Congress?

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MR. SAI: Oh, you know the beauty about this is because of technology, PDF, everything is scanned. Did you know Google Books is doing an outstanding job where you can actually do a Google search on a particular book, and it pops up like the entire executive documents which is almost 1,200 pages. There's also another excellent resource that we use at the university with regard to information of the past from newspapers. Have you folks ever heard of Chronicling America? Coming out of the Library of Congress. So, Chronicling America, if you type it, you can actually search all the newspapers, yeah, well, English papers in the Hawaiian Kingdom, *The Polynesian*, the *Gazette*, you know, it's great stuff. And you get to actually hear what they said back then. And then when you pull it up, you're going that's what Queen Liliuokalani actually said, you know. So, there is a lot of resources there and I would love to provide you the links for the Council and maybe the Council might want to put it on their websites for their constituents to access.

CHAIR PALTIN: Sounds good. I'll take...Member Sinenci, followed by Member Rawlins-Fernandez.

VICE-CHAIR SINENCI: Mahalo, Chair. Thank you, Dr. Sai, for your presentation. I just had a question about the Commission of Inquiry.

MR. SAI: Right.

VICE-CHAIR SINENCI: Now, would the Council of Regency be conducting that inquiry? Who would be doing that inquiry --

MR. SAI: Good.

VICE-CHAIR SINENCI: --at those proceedings?

MR. SAI: So, in light of violations of the laws of war and occupation having occurred with impunity. When I mentioned to you folks what Judge Hara said, what the Supreme Court said, people don't realize that there's victims behind them that have suffered because of that, right. Failure to due process, right. Because of that something had to be done, just like how we had to take up the issue of how do we fix the County with, by what authority in recognizing a government for purposes of international law. So, we have to...we had to look at can something be done to hold people accountable. Well, I knew of royal commissions of inquiry established in monarchical forms of government, so Canada 'cause it's part of the British Commonwealth, Australia, New Zealand, and Great Britain. They actually form out of the executive branches, royal commissions of inquiry. And commissions of inquiry are always set up in an ad hoc capacity, they're not standing, yeah, like a committee. It's an ad hoc entity because of a particular crisis that needs to be looked into. And the purpose of a commission is to provide a report, a report for consideration. That's what it is, it's not that they act on the information, it's almost like fact finding. So, when I looked into Hawaiian Kingdom law, I had to find out if the Hawaiian Kingdom had royal commissions of inquiry, 'cause it...we have to follow Hawaiian law, not British law, not Canadian law, and not Australian law. And I found that the first royal commission of inquiry was actually

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1845, the Board of Commissioners to Quiet Land Titles. They weren't appointed by the Legislature, they were actually appointed by the monarch in its executive function as the executive monarch. It came out of the privy council. Then I found another example three years later in 1848, a royal commission of inquiry was established to investigate charges with regard to impeachment of Gerrit P. Judd, the Minister of Finance where a complaint was lodged against him by the Chief Clerk of the Interior Department. So, what was formed was a royal commission of inquiry to determine whether or not there are grounds for impeachment and which they found there were no grounds, right. But it shows you that impeachment process in the Hawaiian Kingdom is not a legislative process, that's an executive function. They're different from the United States. Impeachment is the House of Representatives and then trial is the Senate, right. So, we found many other commissions of inquiry. One was established because of the small pox breakout, to look into that crisis and make a report which eventually led to the Board of Health being created and policies of quarantine. You know so that's when...before we start to accuse anyone of anything even though the evidence is there, we need to follow the rule of law, and that's when it was decided that we...one, we have the authority to form a commission of inquiry but we need to follow a precedent. So, the precedence that we followed...see we don't do things in a vacuum, we have to do our due diligence to make sure that there's precedence and authority by which we can do what we're doing. In 2008, the European Union established a commission of inquiry to look into the Georgia conflict with Russia--that was occupation and war--and whether or not war crimes are being committed. And this...the European commission out of the European Union identified a head for the commission of inquiry with the particular mandate but also the capacity to appoint experts in certain fields that will be foundational for the report itself. So, in the particular fields that I will be...that I put together experts from Europe, international law meaning the continuity of the Hawaiian Kingdom under international law. Here's the expert. Humanitarian law and war crimes and genocide, I got him. He's the foremost authority. Human rights and self-determination of a people during occupation, very different from colonization, self-determination. It applies to occupied states. And then the legal and political history of Hawaii. These four themes will be chapters in volume two which would be...which would inform the report. Now, when I take a look at Judge Hara's statement with my deputy head who's an international law professor, I need a lens to determine what actions are criminal and that's what this person in Europe is putting together and he should be completed by the end of June. It'll basically say what actions would constitute actus reus and the fulfillment of mens rea the intent and the elements that apply to the different crimes. So, then when I look at something as evidence, I use this lens, it's like a check-off list. Okay, that, that, that, okay, next, that, that, that, that. That would go into a final report. Now, it's up to another entity to execute it. Now, what's important about this regarding war crimes under international law as opposed to war crimes under national law, this person explained to me, this expert, that international law, particular war crimes will have to be prosecuted by any government because that is international law. But if a country itself passed a law, let's say Australia...actually the Dutch passed a law after World War II, denationalization was a war crime. They could only apply denationalization in the future, not during World War II. But if it was a war crime under international law, then it can be applied retroactively. That's how it

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works. So, that's the Commission of Inquiry. Yeah, so it...the report will be given to the Council of Regency, to all contracting powers of the Hague and Geneva Conventions, 'cause they have obligations for prosecution, also UN bodies, the International Criminal Court, and United Nations human rights bodies. It's information so it has to be clear, and when you have experts of the caliber that we have, it goes beyond just what we have here, 'cause they too have networks and they know they wouldn't be on something if it was frivolous, this is a serious issue. So, we have to approach it diligently and with respect, and that's my driving force in that I'm not trying to destabilize, I'm trying to stabilize. I'm not pushing change, I'm pushing transition, that's the key. Yeah, thank you.

CHAIR PALTIN: Member Rawlins-Fernandez?

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo, Chair. Mahalo, Dr. Sai, for your presentation. Are you planning to send us the proclamation that you passed on June 3, 2019?

MR. SAI: We're going to make...it's going to be made public because according to Hawaiian law you got to make it public as part of the statute, and that's where the hawaiiakingdom.org website is going to be with all the proclamations of the past, not just us but the past, it'll be online for access. So, it will be accessible, it's just when it happened on June 3rd, it was a situation that I had to call the council together and say I think we have a problem, we need to fix it, because I'm about to present on how to fix the problem. And, yeah, we did our due diligence on that but yes, it will be made public.

COUNCILMEMBER KING: We have it in our packet.

COUNCILMEMBER RAWLINS-FERNANDEZ: Oh, okay.

MR. SAI: Oh, and it's also in your packet. You folks have a copy of it.

COUNCILMEMBER RAWLINS-FERNANDEZ: ...*(inaudible)*... where is it? Is it the four pages?

MR. SAI: And also PDFs, you folks have the PDFs of everything.

COUNCILMEMBER RAWLINS-FERNANDEZ: Okay, mahalo.

MR. SAI: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: So, that means it's already public --

MR. SAI: Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: --'cause it's --

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MR. SAI: Yes.

COUNCILMEMBER RAWLINS-FERNANDEZ: --on our website. Okay. And then my second question, you know, in regards to the statement, instead of it being a purpose clause before, you know, every bill in the, at the top of every bill, I think it might make more sense in the general provisions, so just a statement in the general provisions instead of, you know, legislatively you putting it in every bill. I don't know.

MR. SAI: I'm in complete agreement because I don't know the rules and procedures for you folks. It was just an idea but how you implement it or the wording of it I leave it up to you folks. And it's really according to your folks' rules and procedures that I'm adhering to. I'm not forcing this to be put as a section. It's just that I found a purpose section in there talking about plastics and I went oh, okay, there's something there about purpose 'cause normally you would have a whereas and there's no whereas. Yeah. But no, I completely leave that up to you folks on how to word it and how to apply it. Yeah. It's just given the background of what you've understood, I think it would have warrant a place somewhere that can say it's done, now you folks move on with everything that you folks have been moving on to. But now taking into consideration all the different laws like the law of sepulture. That's a really important law in the Kingdom that protects burial sites, very important. My good friend is Eddie Ayau, Hale Aloha, we're both classmates from Kamehameha, and he actually asked me about writing something up because they're trying to repatriate some artifacts from a British museum, and I brought that up, the law of sepulture. Because the law of sepulture is interesting because did you know that to steal a body under British...English common law is not a crime. Yeah. To take iwi is not a crime. That's why, you know, the body snatchers in the...you hear in the old days where they sell the bodies to the hospitals and they dissect them. Did you know that that wasn't a crime under English common law? But you know how they got them for theft, the shirt that was on the body, that was theft. That's called personal property. So, what the Hawaiian Kingdom did, it changed English common law 'cause Hawaii drew out of English common law as a former British protectorate. It said no, iwi is a crime. You touch it, that is a crime, and they exercised their legislative authority to protect. Yeah, so, again the genesis of it is important to know, not just what is stated in the law itself but what prompted it. Yeah.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. And then for my last question I wanted to ask Corp. Counsel if there were any foreseeable legal ramifications with a statement like this in our Code?

MR. GALAZIN: Something along the lines of what's posted up there? There could potentially be. I mean we haven't sat down, explored what they would be at this point. You know right now the limit of what I'm going to advise you in sort of stops at the, you know, the Constitution of the United States, the Constitution of the State of Hawaii. So, that would be the boundary. Thanks.

COUNCILMEMBER RAWLINS-FERNANDEZ: Mahalo. Okay, mahalo, Dr. Sai. Mahalo, Chair.

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CHAIR PALTIN: Member...any further questions, Members? I just had one more question. So, can the original valid interest in a fee simple royal patent be transferred to an outside person other than descendants of that original royal patent?

MR. SAI: Good question. Okay, prior to 1851, nobody could own property in the Hawaiian Kingdom unless you were a Hawaiian subject. That was the law, okay. But in...and the reason why that law was made was because a lot of foreigners who got land would turn to their government to send gunboats like Richard Charlton and the whole Paulet situation, Lord Paulet when the British came over and took over. That was over a 300-year lease that was given to Charlton, and it wasn't recognized by the Hawaiian government because you can't give a 300-year lease. So, the provision on the Hawaiian law was to prevent others from calling in their gunboats so only Hawaiian subjects can have fee simple title. You could get a lease but that's not a freehold interest. In 1851...up to 1851, you start to see royal patents, and royal patents has a condition there if it's issued to a foreigner, right. 'Cause after 1851, foreigners could acquire property, it's called the Alien Disability Act, they allowed foreigners to take it. But if you look at the royal patent, there's a clause in there that says should this foreigner seek redress from his government, this patent is void. That's what it said. So, that was their concern, but it actually was okay after a while because the titles were subject to the laws of the country and that Hawaii's foreign relations was on a good level with other countries like France, Great Britain. I mean you had some flare-ups with France, Laplace and others. But they were able to remove that section so now Section 6 of the Hawaiian Civil Code says the laws are obligatory upon all persons, whether subjects of this Kingdom or citizens or subjects of any foreign state while within the limits of this Kingdom, and it applies to all property. So, they were able to ensure that if you call a foreigner for support, that's called treason, you lose it, and property can be confiscated for treason. So, in answer to your question, Madam Chair, foreigners can acquire territory but subject to the laws of the country and taxation. Yeah, subject to the corporate rights of the Hawaiian body politic.

CHAIR PALTIN: And then why do royal patents and Land Commission Awards continue to be recognized on subdivision maps and title?

MR. SAI: Good question. So, like I shared with...what I showed earlier, the tax map, right? So, what the tax map shows are the boundaries of LCAs and royal patents. Whether royal patents upon confirmation of a Land Commission Award or what is called royal patent grants. That's another type of royal patent. You have that demarcation of boundaries. Now, when a person receives a royal patent, the royal patent is merely the deed by which you get from a government, that's why it's called a royal patent from the Interior Department, okay? But once the person has that title, let's say Crowningbergh, the example I used up there in Waikapu. He had Royal Patent 111, okay. Let's say he sold a portion of his acreage under a deed to Joe Kealoha and he recorded that deed in the Bureau of Conveyances. That deed now has a different boundary, but it fits on the original Land Commission Award, and the size of...or the demarcation of boundaries when you pull it all the way 'till today with tax maps, with tax map key, the tax map key numbers refer to the boundaries of that particular deed

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of today which may sit on three Land Commission Awards. Not that those who have the Land Commission Award have a say in that owner's property. No, the Bureau of Conveyances will show the title was transferred and valuable consideration was exchanged. For want of a notary that's why we have a defect, right. But now it's okay 'cause we went ahead and recognized it's okay, just like what the Supreme Court did in Texas versus White, so it can continue. So, a lot of people tend to think if they have the royal patent, that's the original title, not the deed. No, the deed is just something that came from a government back around 1850. You got to go into the Bureau of Conveyances to determine if the deed...if a portion of the property was conveyed. And Hawaiian law provides how you convey property and what are the requirements, but also the conditions on the land called native tenant rights. So, that royal patent, that...on Crowningbergh had reserving the rights of native tenants. That would apply to all deeds that had been transferred even if it's not on the deed today 'cause that's a condition of the title. And then Hawaiian law defines what is native tenant rights, not US law, yeah.

CHAIR PALTIN: Thank you. Thank you very much. Any more questions for the presenter? Seeing none, and I see we got a little bit past our time so thank you very much for your presentation. We got a lot to consider.

MR. SAI: Thank you. Mahalo.

CHAIR PALTIN: And if I could have a motion to defer this item.

COUNCILMEMBER KING: So moved.

COUNCILMEMBER RAWLINS-FERNANDEZ: Second.

CHAIR PALTIN: Moved by Council Chair King and seconded by Council Vice-Chair Rawlins-Fernandez. All in favor say "aye."

COUNCILMEMBERS: Aye.

CHAIR PALTIN: All oppose say "nay." So, we have one, two, three, four...five "ayes" with Councilmember Molina and Yuki Lei Sugimura excused.

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VOTE: AYES: Chair Paltin, Vice-Chair Sinenci, and Councilmembers King, Lee, and Rawlins-Fernandez.

NOES: None.

ABSTAIN: None.

ABSENT: None.

EXC.: Councilmembers Molina and Sugimura.

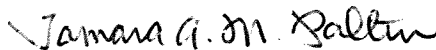
MOTION CARRIED.

ACTION: DEFER pending further discussion.

CHAIR PALTIN: And I will adjourn the meeting at 12:09. . . .(gavel). . .

ADJOURN: 12:10 p.m.

APPROVED:



TAMARA PALTIN, Chair
Planning and Sustainable Land Use
Committee

pslu:min:190605:ds

Transcribed by: Daniel Schoenbeck

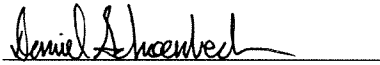
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CERTIFICATE

I, Daniel Schoenbeck, 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 19th day of June, 2019, in Kula, Hawaii



Daniel Schoenbeck