

PERMANENT COURT OF ARBITRATION

LANCE PAUL LARSEN VS. THE HAWAIIAN KINGDOM

**MEMORIAL
OF
LANCE PAUL LARSEN**

VOLUME I

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MEMORIAL OF LANCE PAUL LARSEN

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INTRODUCTION

A. The Issues Before the Arbitral Tribunal

1. This case comes before the Court, in accordance with Article I of the UNCITRAL Arbitration Rules, pursuant to an agreement between the Claimant, Mr. Lance Paul Larsen, and the Respondent, the Hawaiian Kingdom¹ requesting the Arbitral Tribunal to determine, on the basis of international law, whether

(1) the rights of the Claimant under international law as a Hawaiian subject are being violated, and if so,

(2) does he have any redress against the Respondent Government of the Hawaiian Kingdom?

B. Summary of Argument

2. As the Claimant, Mr. Larsen submits the following responses to the Arbitral tribunal as his position:

(1) Yes, Mr. Larsen's rights as a Hawaiian subject are being violated under international law as a result of the prolonged occupation of the Hawaiian islands by the United States of America.

(2) Yes, Mr. Larsen does have redress against the Respondent Government of the Hawaiian Kingdom, as his government has obligations and duties to protect the rights of Hawaiian subjects even in times of war and occupation.

3. Mr. Larsen rests his case for these submissions on the following grounds:

1. Mr. Larsen is a Hawaiian subject, with a Hawaiian nationality.

2. As a Hawaiian subject, Mr. Larsen is bound by Hawaiian Kingdom law. He is not bound by the laws of the State of Hawaii nor by the laws of the United States of America.

3. Mr. Larsen's rights as a Hawaiian subject have been systematically and continuously denied by the United States of America, the occupying force in the prolonged occupation of the Hawaiian islands by the United States of America. At a minimum, the United States of America has continually denied Mr. Larsen's nationality as a Hawaiian subject, has illegally imposed American laws over his person, has extorted monetary fines from Mr. Larsen under threat of imprisonment, and has imprisoned Mr. Larsen for asserting his lawful rights as a Hawaiian national.

4. The government of the Hawaiian Kingdom has a duty to protect the rights of Mr. Larsen, a Hawaiian subject, despite the continued occupation of the Hawaiian Islands by the United States of America.

5. The government of the Hawaiian Kingdom, through its acting Regency, has not fulfilled this duty.

4. The factual and legal basis for these grounds is the subject of this Memorial. Part One of the Memorial sets forth the historical background to the prolonged occupation of the Hawaiian islands by the United States of America. Part Two then sets forth Mr. Larsen's Statement of Claim, which contains a Statement of Facts Supporting the Claim, and a discussion of the issues before the Arbitral tribunal. Finally, Part Three sets forth Claimant's submissions to the Arbitral Tribunal.

C, Procedural Statement

5. The steps by which this dispute came before this court are as follows:

6. On three separate occasions, in 1998², 1999³ and 2000⁴, Mr. Larsen petitioned Respondent, the acting Regency of the Hawaiian Kingdom, for redress of grievances resulting from the continual violation of Mr. Larsen's rights as a Hawaiian subject.

7. On 4 August 1999, Mr. Larsen filed an original complaint for injunctive relief in the United States District Court for the District of Hawaii, against the United States Government and the Hawaiian Kingdom Government⁵. In the federal lawsuit, Mr. Larsen accused both defendants of violating the 1849 Treaty of Commerce, Friendship and Navigation by allowing U.S. domestic law to be imposed within the territorial dominion of the Hawaiian Kingdom over the person of Lance Paul Larsen.

8. On 30 October 1999, Mr. Larsen entered into an Arbitration Agreement with the Hawaiian Kingdom submitting the dispute alleged in the complaint for injunctive relief to the Permanent Court of Arbitration for final and binding arbitration.⁶

9. On 5 November 1999, United States Judge Samuel P. King signed a Stipulated Settlement Agreement between Claimant and Respondent 'dismissing entire case without prejudice . . . and submitting all issues to binding arbitration.'⁷

10. On 8 November 1999, Mr. Larsen initiated formal arbitration by serving upon Respondent a Notice of Arbitration 'to initiate recourse to arbitral proceedings in compliance with the Permanent Court of Arbitration Optional Rules for Arbitrating Disputes between Two Parties of which only One is a State.'⁸

11. On 3 December 1999, the parties entered into a First Amendment to the Notice of Arbitration, in which the parties agreed to conduct arbitration under the UNCITRAL rules rather than under the Optional Rules.⁹

12. On 25 January 2000, the parties entered into a Special Agreement between Lance Paul Larsen and the Hawaiian Kingdom in which Mr. Keoni Agard, Esquire, was selected as the Appointing Authority for the case, and in which the issues to be decided by the same were further clarified.¹⁰

13. On 28 February 2000, the parties entered into an Amendment to the Special Agreement of 25 January 2000 in which the parties agreed to 'increase the composition of the Arbitral tribunal from one (1) arbitrator to three (3) arbitrators.'¹¹

14. The present Memorial is now submitted pursuant to the Joint Letter from the Parties to the Permanent Court of Arbitration notifying the Court of a 45 day extension to file the Memorials, dated 25 January 2000, fixing 24 May 2000 as the date for the submission of the party's first round of written pleadings.¹²

PART ONE

Historical Background to the Occupation of the Hawaiian Islands by the United States of America

INTRODUCTION

15. From January 17, 1893, until the present time, the United States of America has been occupying the Hawaiian Kingdom in direct violation of the numerous treaties entered into between the Hawaiian Kingdom and the United States of America before 1893, the Hague Conventions IV and V of 1907, the Geneva Conventions of 1949, and the Vienna Convention of the law of treaties, 1969. It is this occupation that has given rise to the injuries that bring Mr. Larsen before this Arbitral Tribunal today. While the occupation of the Hawaiian Kingdom is not an issue before the court, because the historical facts described below are not common knowledge, they are provided as historical information relevant to the legal situation in which Mr. Larsen's rights are being violated.

CHAPTER I

HAWAIIAN KINGDOM A MEMBER OF THE FAMILY OF NATIONS WITH TREATY RELATIONS WITH THE UNITED STATES OF AMERICA

16. On 28 November 1843, Great Britain and France formally recognized the Hawaiian Kingdom as an Independent State, with "a government capable of providing for the regularity of its relations with foreign nations," thereby welcoming the Hawaiian Kingdom into the Family of Nations.¹³

17. On 20 December 1849, a *Treaty of Friendship, Commerce, and Navigation Between the United States of America and His Majesty the King of the Hawaiian Islands*, was concluded and signed at Washington. Ratifications by both countries were exchanged at Lahaina, island of Maui, on 24 August 1850, and the treaty was in force from that date, for the term of ten years, and further until either of the contracting parties shall give notice to the other of its intention to terminate.¹⁴

18. On 4 May 1870, a *Postal Convention Between the United States of America and the Hawaiian Kingdom* was concluded and signed at Washington "establishing and regulating the exchange of correspondence between the United States of America and the Hawaiian Kingdom."¹⁵

19. On 30 January 1875, a *Treaty of Reciprocity Between the United States of America and the Hawaiian Kingdom* was concluded and signed at Washington "to strengthen and perpetuate the friendly relations which have heretofore uniformly existed between them, and to consolidate their commercial intercourse."¹⁶

20. On 2 November 1883, a *Convention Between the Post Office Department of the United States of America and the Post Office Department of the Kingdom of Hawaii, Concerning the Exchange of Money Orders* was concluded and signed at Washington, the two nations "being desirous of facilitating the exchange of sums of money between the two countries."¹⁷

21. On 6 December 1884, a *Supplementary convention between the United States of America and His Majesty the King of the Hawaiian Islands, to limit the duration of the convention respecting commercial reciprocity concluded January 30, 1875* was concluded and signed at Washington, for the "increase and consolidation of their mutual commercial interests."¹⁸

CHAPTER II

FIRST UNSUCCESSFUL ATTEMPT TO OVERTHROW THE GOVERNMENT OF THE HAWAIIAN KINGDOM

22. Despite the international recognition of the territorial dominion of the Hawaiian Kingdom prior to 1893, a handful of residents of the Hawaiian islands at this time conspired with United States diplomats and military forces to overthrow the Hawaiian Kingdom government and to force annexation of the Hawaiian islands by the United States of America. In an attempt to effectuate these plans, on 17 January 1893, a self-declared “Committee of Safety” committed the crime of high treason as defined under § 1, Chapter VI of the Penal Code of the Hawaiian Kingdom by deposing the reigning monarch of the Hawaiian Kingdom, Her Majesty Queen Lili`uokalani, and her cabinet, and proclaiming the establishment of a “Provisional Government.” The Committee issued a *Proclamation and Orders Incident to the Change From the Monarchy to the Provisional Government*¹⁹ on this day to document the attempted overthrow which reads in relevant part:

We, citizens and residents of the Hawaiian Island, organized and acting for the public safety and the common good, hereby proclaim as follows:

1. The Hawaiian Monarchical system of Government is hereby abrogated.
2. A Provisional Government for the control and management of public affairs and the protection of the public peace is hereby established, to exist until terms of union with the United States of America have been negotiated and agreed upon.

23. On that same day, Minister John L. Stevens, a United States diplomat assigned to the Hawaiian Kingdom, participated in the conspiracy and implicated the United States of America in the conspiracy by extending *de facto* recognition to the Provisional Government on behalf of the United States of America with the following statement:

A Provisional Government having been duly constituted in the place of the recent Government of Queen Liliuokalani (*sic*), and said Provisional Government being in full possession of the Government buildings, the archives, and the treasury, and in control of the capital of the Hawaiian Islands, I hereby recognize said Provisional Government as the *de facto* Government of the Hawaiian Islands.²⁰

24. On that same day, Minister Stevens further conspired with the Committee of Safety and further implicated the United States in the conspiracy by issuing orders to deploy marines and sailors from the warship the U.S.S. Boston into the city of Honolulu.²¹

25. On that same day, in response to the above described events, and when informed of the risk of bloodshed that would result from total resistance, Her Majesty Queen Lili`uokalani issued a statement “temporarily” yielding her executive authority as the constitutional Monarch to the United States government, by its President, as a fact finder.²² At no time did the Queen yield any of her authority to the provisional government. In her protest letter, the Queen’s states:

That I yield to the superior force of the United States of America whose Minister Plenipotentiary, His Excellency John L. Stevens, has caused United States troops to be landed at Honolulu and declared that he would support the provisional government, Now to avoid any collision of armed force, and perhaps the loss of life, I do this under protest and impelled by said force yield my authority until such

time as the Government of the United States shall, upon facts being presented to it, undo the action of its representatives and reinstate me in the authority which I claim as the Constitutional Sovereign of the Hawaiian Islands.

26. On 14 February 1893, in an attempt to force the annexation of the Hawaiian islands by the United States of America, delegates of the Committee of Safety, who had traveled to Washington submitted a proposed treaty to John W. Foster, Secretary of State of the United States, for signature by the President of the United States and ratification by the Congress.²³ The proposed treaty between the Provisional Government and the United States of America reads in part:

The Government of the Hawaiian Islands hereby cedes . . . absolutely and without reserve to the United States forever all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies; renouncing in favor of the United States every sovereign right of which as an independent nation it is now possessed; and hence forth said Hawaiian Islands and every island and key thereunto appertaining and each and every portion thereof shall become and be an integral part of the territory of the United States.

27. On 11 March 1893, Having already received and read Queen Lili`uokalani's First Letter of Protest, newly elected United States President Cleveland acted righteously upon the Queen's request for fact finding by withdrawing the proposed Treaty from the Senate and by dispatching James H. Blount, a former United States Congressman, as special commissioner, to Hawai'i in order to impartially investigate the causes of the so-called revolution and to report the findings of the same.²⁴

28. On 18 December 1893, based on the findings set forth in the reports of Blount's investigation, President Grover Cleveland delivered a Message to the United States Congress whereby he reported fully and accurately on the situation in Hawai'i.²⁵ In his message, the President describes the actions of members of the Committee of Safety, and of the Provisional Government on and around 17 January 1893 as "an act of war, committed with the participation of a diplomatic representative of the United States and without authority of Congress."

In this speech, Cleveland also recognized that the "military occupation of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property." Motivated by a "desire to aid [the Queen and her supporters] in the restoration of the status existing before the lawless landing of the United States forces at Honolulu," President Cleveland pulled the proposed annexation treaty from the senate, and declared that "the past should be buried, and that the restored Government should reassume its authority as if its continuity had not been interrupted."

CHAPTER III

SECOND UNSUCCESSFUL ATTEMPT TO OVERTHROW THE GOVERNMENT OF THE HAWAIIAN KINGDOM

29. Undaunted by its inability to succeed at its first attempt of annexation, on 16 June 1897, several members of the defunct Committee of Safety, reorganized, this time as "The Republic of Hawaii" to negotiate and sign a second proposed *Treaty of Annexation*. This proposed treaty²⁶, if ratified by the United States Senate, would have provided for the annexation of the Hawaiian islands by the United States of America in the following manner:

The Republic of Hawaii hereby cedes absolutely and without reserve to the United States of America all rights of sovereignty of whatsoever kind in and over the Hawaiian Islands and their dependencies; and it is agreed that all territory of and

appertaining to the Republic of Hawaii is hereby annexed to the United States of America under the name of the Territory of Hawaii.

30. On 17 June 1897, Her Majesty Queen Lili`uokalani, submitted to the Senate of the United States, a formal protest to the proposed treaty of annexation²⁷, which states in part:

I, Liliuokalani of Hawaii . . . do hereby protest against the ratification of a certain treaty, which, so I am informed, has been signed at Washington by Messrs. Hatch, Thurston, and Kinney, purporting to cede those Islands to the territory and dominion of the United States. I declare such a treaty to be an act of wrong toward native and part-native people of Hawaii, an invasion of the rights of the ruling chiefs, in violation of international rights both toward my people and toward friendly nations with whom they have made treaties, the perpetuation of the fraud whereby the constitutional government was overthrown, and, finally an act of gross injustice to me.

.

I, Liliuokalani of Hawaii, do hereby call upon the President of that nation, to whom alone I yielded my property and my authority, to withdraw said treaty (ceding said islands) from further consideration. I ask the honorable Senate of the United States to decline to ratify said treaty, and I implore the people of this great and good nation, from which my ancestors learned the Christian religion, to sustain their representatives in such acts of justice and equity as may be in accord with the principles of their fathers, and to the Almighty Ruler of the universe, to his who judgeth righteously, I commit my cause.

31. Fortifying Her Majesty Queen Lili`uokalani’s Second Letter of Protest, a Petition Against Annexation, signed by 21,269 Hawaiian subjects and residents of the Hawaiian Kingdom to “earnestly protest against the annexation of the said Hawaiian Islands to the said United States of America in any form or shape,” was also submitted to the United States Senate.²⁸

32. In the end, the United States Senate failed to acquire the required 2/3 vote required by the United States Constitution, Article II, Section 2, to ratify the proposed treaty of annexation. Thus the United States has never acquired any lawful authority over the Hawaiian islands.

CHAPTER IV

THE PROLONGED OCCUPATION OF THE HAWAIIAN ISLANDS BY THE UNITED STATES OF AMERICA

33. Because the United States has never ratified a treaty of annexation over the Hawaiian islands, the territorial sovereignty of the Hawaiian Kingdom over the Hawaiian Islands has never been lawfully or legally diminished. Despite the inability of the United States of America to acquire sovereignty of the Hawaiian islands, the United States of America has been occupying the Hawaiian islands through its military presence in the Hawaiian islands and by imposing and enforcing its own municipal laws within the territorial jurisdiction of the Hawaiian islands since 1893. In addition, the United States of America imposes American laws within the Hawaiian islands by and through its political subdivision, the “State of Hawaii.”²⁹

34. The United States of America has, on several occasions, recognized the illegality of its occupation of the Hawaiian Kingdom. First, in 1893, President Grover Cleveland recognized the illegality of the occupation in his message to Congress when he stated that the “military occupation

of Honolulu by the United States on the day mentioned was wholly without justification, either as an occupation by consent or as an occupation necessitated by dangers threatening American life and property.”³⁰

35. Almost a century later, in a 1988 legal opinion entitled *Legal Issues Raised by the Proposed Presidential Proclamation to Extend the Territorial Sea*, the United States Department of Justice, Office of Legal Counsel again acknowledged the illegality of the attempted annexation of the Hawaiian islands by a joint resolution.³¹ The opinion states that “it is . . . unclear which constitutional power Congress exercised when it acquired Hawaii by joint resolution.”³² The opinion also quotes a constitutional scholar as writing:

The constitutionality of the annexation of Hawaii, by a simple legislative act, was strenuously contested at the time both in Congress and by the press. The right to annex by treaty was not denied, but it was denied that this might be done by a simple legislative act. . . . Only by means of treaties, it was asserted, can the relations between States be governed, for a legislative act is necessarily without extraterritorial force -- confined in its operation to the territory of the State by whose legislature it is enacted.³³

36. Then, in a 1996 legal opinion entitled *Validity of Congressional-Executive Agreements that Substantially Modify the United States' Obligations Under an Existing Treaty* the United States Department of Justice, Office of Legal Counsel again acknowledged the illegality of the attempted annexation of the Hawaiian islands, this time in light of the numerous international treaty obligations that the United States had previously entered into with the Hawaiian Kingdom.³⁴ The opinion states that

The unilateral modification or repeal of a provision of a treaty by Act of Congress, although effective as a matter of domestic law, will not generally relieve the United States of the international legal obligations that it may have under that provision.³⁵

The opinion also quotes a Chief Justice of the United States Supreme Court:

a judicial determination that an act of Congress is to prevail over a treaty does not relieve the Government of the United States of the obligations established by a treaty. The distinction is often ignored between a rule of domestic law which is established by our legislative and judicial decisions and may be inconsistent with an existing Treaty, and the international obligation which a Treaty establishes. When this obligation is not performed a claim will inevitably be made to which the existence of merely domestic legislation does not constitute a defense and, if the claim seems to be well founded and other methods of settlement have not been availed of, the usual recourse is arbitration in which international rules of action and obligations would be the subject of consideration.³⁶

37. On November 23, 1993, the United States of America again recognized the illegality of its occupation of the Hawaiian Kingdom when President William Clinton signed a *Joint Resolution to acknowledge the 100th anniversary of the January 17, 1893 overthrow of the Kingdom of Hawaii, and to offer an apology to Native Hawaiians on behalf of the United States for the overthrow of the Kingdom of Hawaii*,³⁷ in which the following findings of fact are enacted into American municipal law:

Whereas , on January 14, 1893, John L. Stevens . . . the United States Minister assigned to the sovereign and independent Kingdom of Hawaii conspired with a small group of non-Hawaiian residents of the Kingdom of Hawaii, including

citizens of the United States, to overthrow the indigenous and lawful Government of Hawaii;

Whereas, . . . the Provisional Government . . . was unable to rally the support from two-thirds of the Senate needed to ratify a treaty of annexation;

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

Now therefore, be it Resolved by the Senate and House of Representatives of the United States of America in Congress assembled . . . The Congress . . .

(3) apologizes to Native Hawaiians on behalf of the people of the United States for the overthrow of the Kingdom of Hawaii on January 17, 1893 with the participation of agents and citizens of the United States, and the deprivation of the rights of Native Hawaiians to self-determination;

(4) expresses its commitment to acknowledge the ramifications of the overthrow of the Kingdom of Hawaii, in order to provide a proper foundation for reconciliation between the United States and the Native Hawaiian people.

38. Other international tribunals have also verified the occupation of the Hawaiian Kingdom by the United States of America. In 1993 Ka Ho'okolokolonui Kanaka Maoli, a People's international Tribunal was held in Hawaii, to rule on issues surrounding the prolonged occupation of the Hawaiian islands by the United States of America.³⁸ Based on 147 testimonies, gathered in seven days on five different islands, and on additional written and video testimonies, the panel of international judges convened for the tribunal found that "Kanaka Maoli sovereignty has not been extinguished by the illegal actions of the United States . . . the Kanaka Maoli have been subjected to ongoing processes of genocide, both physical and cultural, at the hands of the U.S. government and the government of the State of Hawai'i."³⁹

CONCLUSION TO PART ONE

39. While several attempts were made in the late 1800's to properly annex the Hawaiian Kingdom to the United States of America, to this day the United States of America has never properly ratified any legal instrument to acquire sovereignty over the Hawaiian islands

40. On several occasions, the United States of America has acknowledged the fact that there was never a proper transfer of sovereignty. Specifically, President Grover Cleveland, in 1893, the Department of Justice, in 1988 and 1996, and President William Clinton and the 103rd Congress of the United States of America in 1993, have all acknowledged that "the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum."

41. To this day the United States of America has yet to acquire any lawful authority over the Hawaiian islands. Despite this fact though, the United States of America continues to impose its own domestic laws within the territorial borders of the Hawaiian Kingdom as an occupying power.

It is precisely this factual and legal background that has given rise to the Mr. Larsen's injuries, which are discussed in Part Two of this Memorial.

Part Two

STATEMENT OF CLAIM

INTRODUCTION

42. In this Part of Claimant's Memorial, the factual and legal basis for Claimant's submissions will be discussed. It is Claimant's position that his rights as a Hawaiian subject are being violated under international law as a result of the prolonged occupation of the Hawaiian islands by the United States of America. It is also Claimant's position that he is entitled to redress against the Respondent Government of the Hawaiian Kingdom, as his government has obligations and duties to protect his rights as a Hawaiian subjects even in times of war and occupation.

STATEMENT OF FACTS SUPPORTING CLAIM

43. Claimant, Mr. Lance Paul Larsen, was born a Hawaiian Subject on 1 June 1953, in the city of Honolulu, within the territorial borders of the Hawaiian Kingdom.⁴⁰

44. Mr. Larsen, is a native Hawaiian by blood and a Hawaiian subject by nationality.⁴¹

45. As a Hawaiian subject living within the Hawaiian Kingdom,⁴² Mr. Larsen observes and lives in accordance with the laws of the Hawaiian Kingdom.

46. Mr. Larsen owns a 1987 white Jeep Comanche pick-up truck which he operates in accordance with the laws of the Hawaiian Kingdom.⁴³ On the back of Mr. Larsen's pick-up truck, a placard is mounted on which one of the laws of the Hawaiian Kingdom is quoted⁴⁴:

COMPILED LAWS OF THE HAWAIIAN KINGDOM

“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 . . . The property of all such persons, while such property is within the territorial jurisdiction of this kingdom, is also subject to the laws.” Sec. 6, Chapter II, Title I, Civil Code of the Hawaiian Islands

47. On 29 November 1997, Mr. Larsen signed a sworn affidavit in which he stated the following⁴⁵:

1. I, Lance Paul Larsen am a native Hawaiian by blood and a subject by nationality.

3. I am law abiding Native Hawaiian subject sworn under the laws of the Kingdom of Hawai'i to uphold and honor the Treaty of 1850, between the United States of America and our Kingdom of Hawai'i, including the right to travel.

6. As a Native Hawaiian, I Lance Paul Larsen travel with the laws of the Kingdom on the back of my truck instead of American law and particularly, the “State of Hawai’i” laws which is in contravention to the laws of this land the Kingdom of Hawai’i. . .

7. As a Native Hawaiian, I have claimed and now stand to defend, my vested rights as stated in these legal documents; Declaration of Rights, 1839, 1850 Treaty between the United States of America and The Kingdom of Hawai’i, Compiled Laws of 1864, Penal Code of 1869 and the 1864 Hawai’i Constitution

48. Because Mr. Larsen follows Hawaiian Kingdom law instead of the laws imposed upon him by the United States of America, Mr. Larsen has been issued hundreds of traffic and motor vehicle tickets and citations by law enforcement officers employed by the United States of America, by and through its political subdivision the State of Hawaii.⁴⁶

49. Mr. Larsen has consistently responded to these citations by asserting his rights to travel under the laws of the Hawaiian Kingdom as a Hawaiian subject, and by questioning the authority of the various State of Hawaii and United States employees and public officials that have charged him with these citations.

50. Mr. Larsen has asserted his rights as a Hawaiian subject and questioned the authority of the State of Hawaii both in writing and in person.

51. In writing, Mr. Larsen has drafted and filed with courts and other State of Hawaii legal institutions numerous written motions and memorandums asserting his rights as a Hawaiian subject and questioned the jurisdiction of the courts and public employees of the State of Hawaii.⁴⁷

52. In person at numerous court hearings and other required appearances, Mr. Larsen has orally asserted his rights as a Hawaiian subject and questioned the jurisdiction of the courts and public employees of the State of Hawaii.⁴⁸

53. At no time has Mr. Larsen received any recognition of his nationality as a Hawaiian subject. At all times, the courts of the State of Hawaii have treated Mr. Larsen as an American citizen. Nor has any judicial officer provided Mr. Larsen with valid legal explanation for the prolonged occupation of the Hawaiian Kingdom or for the denial of his nationality as a Hawaiian subject.⁴⁹ Indeed the judges and other employees of the State of Hawaii have ignored his questions and assertions, choosing instead to participate in a legal scheme that attempts to extinguish the Hawaiian nationality and to impose American citizenship upon all Hawaiian nationals.

54. Despite Mr. Larsen’s attempts to assert his nationality and to protest the continual imposition of American laws over his person, Mr. Larsen has been convicted on the majority of the traffic and motor vehicle citations that he has received.⁵⁰

55. In sum, Mr. Larsen’s loyalty to his nationality, and to the laws of the Hawaiian Kingdom, constitutes criminal activity under the laws of the Occupying Power. While Mr. Larsen’s rights as a Hawaiian subject to follow Hawaiian Kingdom law are secured to him under Hawaiian Kingdom law and international law, the State of Hawaii has reacted to Mr. Larsen’s efforts to assert his nationality, by imposing citations, tickets, court appearances, fines, and even imprisonment over Mr. Larsen.

56. In March 1998, the Respondent government of the Hawaiian Kingdom re-established⁵¹ printed a Proclamation of the Regent of the Hawaiian Kingdom, *pro tempore*, in *The Hawaiian News*, in which it was declared that the “...Hawaiian Monarchial system of Government is hereby

re-established,” and the “Civil Code of the Hawaiian Islands as noted in the Compiled Laws of 1884, together with the session laws of 1884 and 1886 and the Hawaiian Penal Code are in full force.”⁵² In the same issue of *The Hawaiian News*, the acting Office of the Regent of the government of the Hawaiian Kingdom, also ran the following solicitation:⁵³

REGISTER TO VOTE

If you are a male subject of the Hawaiian Kingdom by nationality, you may be qualified to register to vote for Representatives to the Legislative Assembly of the Kingdom, to be held at a date to be hereafter determined. . .

In order to comply with this law, native or part-native Hawaiian subjects who desire to register to vote, must present a copy of his Birth Certificate to show racial extraction (Kanaka Maoli), and a payment of \$117.00 that covers back taxes of \$105.00, and \$12.00 processing fee, which includes a “Handbook on the Qualifications of Electors for Representatives to the Legislative Assembly of the Kingdom,” Voter I.D. card, and notary fee.

VOTER APPLICANTS MAY CONTACT THE OFFICE OF THE REGENT AT:

850 Richards Street, suite 600a
Honolulu, Hawai'i 96813
Phone: (808) 538-3997
Fax: (808) 526-1991
E-mail: regenthk@lava.net

57. On 16 April 1998, Mr. Larsen did register to vote as a subject of the Hawaiian Kingdom with the acting Office of the Regent of the Hawaiian Kingdom.⁵⁴

58. Shortly after registering to vote with the acting Office of the Regent, on 20 April 1998, pursuant to Article 4⁵⁵ of the Constitution of the Hawaiian Kingdom of 1864, Mr. Larsen formally petitioned the acting Office of the Regent, for assistance in his efforts to assert his Nationality as a Hawaiian Subject, and to protest the unlawful imposition of American laws over his person.⁵⁶ In Mr. Larsen's First Petition, he says the following about his ongoing struggles with the State of Hawaii:

My case involves “tickets” given to my parked car when I am not there. I own my car and my car does not have a license plate, safety or tax stickers and . . . the State of Hawai'i laws do not apply to me as a subject of the Kingdom of Hawai'i.

I have been driving with the laws of the kingdom on the back of my truck since Mar. 1997. Last state registration on the car was recorded in 1987. After confirmation of who I am by my genealogy, I have registered to vote and formed my business under the laws of the Kingdom of Hawai'i.

.
As a native Hawaiian subject I have stated in a good way who I am to the illegal state of Hawai'i officers and their higher ups and still they continue to ticket my car. I did not hurt, cause harm to, or kill anybody. I believe I am consciously, methodically and consistently harassed because of, who I proudly say I am and what it means for other native Hawaiian subjects who could end up in a similar situation. My adversaries are relatives, friends and supporters of the “illegally created State of Hawai'i” whose interest in me is based on the property and political

connections they have had for over one hundred year old and is about to lose it all, is clearly based on fear and they react to fear in this was. As a native Hawaiian I am subject to uphold the laws and constitutions of the Kingdom of Hawai'i and still my rights as a native Hawaiian subject is consistently violated.

.
I drive with the laws on the back of my truck as one way to educate the public of the laws of this land and to let the police know what laws I travel under. . . . I am not an American, I was never naturalized as an American citizen and this is not our court and they are not of a competent judicial court of Hawaiian Kingdom law. I am caught in the middle of the deep blue sea and a beautiful land mass of foreigners in my homeland. I refuse to be thrown off of my islands, my homeland because someone else has said, "I have the power over you, because I said." All of this is contravention of Hawaiian Kingdom. When is enough, enough!!

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In Mr. Larsen's Petition, he formally requests assistance from the Office of the Regent in the form of:

a letter from the Office of the Regent in support of the evidences . . . regarding myself . . . and more particularly to my status as a native Hawaiian subject maintaining to uphold Hawaiian Kingdom Law.

59. In response to the above petition, on 18 June 1999, David Keanu Sai, acting Minister of the Interior for the Hawaiian Kingdom, did appear in Puna District Court, on the island of Hawai'i, and did testify as an expert witness about Hawaiian Kingdom law and about the prolonged occupation of the Hawaiian islands by the United States of America.⁵⁷ During direct examination, Mr. Sai answered the following questions as follows:

Q: In your expert testimony, how would you characterize the attempted prosecution by the State of Hawaii of this subject of the kingdom Lance Larsen?

A: How would I classify it?

Q: Is it proper or legal or would it be recognized?

A: [T]he State of Hawaii is a political subdivision of the United States of America established pursuant to Public Law 86-3 of 1959 admitting Hawaii as a state into the union, that act alone is a Municipal law and not a Treaty law, which remains within the jurisdiction of the United States and its territory.

And as we take it farther back, the . . . Hawaiian Homes Commission Act of 1921, which is an amendment to the Organic Act of 1900, again are Municipal laws within the Hawaiian islands, and then it goes back to 1898 and the joint resolution which is also Municipal law of the United States.

And what we have here is that American law is being imposed in the Hawaiian islands, which is in violation of Article 8 of the Treaty of 1850, which was ratified by the United States Senate as well as the Hawaiian government and duly exchanged in Honolulu on August 24, 1850.

So the issue of authority and competency derives from the supreme law of the land which is the treaty itself . . .

And at this present time, we're dealing with . . . the transition you might say of this new -- new or old information because . . . a lot of us didn't know this and we're now starting to see it. Now, this is not against anyone. It's just the facts remain that there is no treaty that allows American sovereignty to have been transferred to this island nation which has been a member of the family of nations since 1843 by the enactment of . . . the Queen of England and the King of France at the Court of London in 1843.

So since that time, that is when we began to establish . . . international and diplomatic intercourse with other countries that dealt with commercial trade and under the auspices of the law of nations and international law.

And that in a sense is why this Court respectfully does not have the proper authority . . . ⁵⁸

After considering a Motion to Dismiss filed previously in the case and the above testimony of Mr. Sai, the presiding Judge, Judge Sandra Schutte issued the following comments and ruling on Mr. Larsen's Motion:

[Y]ou present a very hard issue, and I agree with your attorney that an issue regarding treaty law does not belong in State Court. It belongs in Federal Court. However, your traffic offenses are State Court offenses, and I am - - I have to follow the law of the State of Hawaii.

[O]ur Supreme Court . . . has held in more than one instance that the District Court has jurisdiction over . . . traffic laws. The Court has held that . . . the Constitutions of the Kingdom of Hawaii do not apply anymore. . .

And based on this decision, I have to deny your motion to dismiss. . . . But it is my understanding from our chambers conference that it's your intention to file an action in Federal Court, and you feel that Federal Court is more appropriate.

And I would agree with you that if there is an interpretation of the treaty, Federal Court should interpret that.

So what I'm going to do today is I'm going to deny the motion to dismiss and reset this trial and give you, Ms. parks, an opportunity to file your action in Federal Court and remove this case to Federal Court, which at least with your theory may have a more appropriate venue. ⁵⁹

60. Shortly thereafter, on 4 August 1999, in an effort to bring the jurisdictional issues alleged by the Mr. Larsen to a competent court, Mr. Larsen filed an original complaint for injunctive relief in the United States District Court for the District of Hawaii, against the United States Government and the Hawaiian Kingdom Government. In the federal lawsuit, Mr. Larsen accused both defendants of violating the 1849 Treaty of Commerce, Friendship and Navigation by allowing U.S. domestic law to be imposed over his person within the territorial dominion of the Hawaiian Kingdom. ⁶⁰

61. On 31 August 1999, pursuant to Article 4 of the Constitution of the Hawaiian Kingdom of 1864, Mr. Larsen formally petitioned the acting Office of the Regent a second time for more assistance in his efforts to assert his Nationality as a Hawaiian Subject, and to protest the unlawful

imposition of American laws over his person.⁶¹ In Mr. Larsen's Second Petition, he makes the following assertions:

That over the span of my lifetime, and continuing through today, the United States of America, including its political subdivision, the State of Hawai'i, and its several Counties have been and continue to impose American municipal laws over my person within the territorial jurisdiction of the Hawaiian Kingdom, infringing upon my Constitutional rights, and upon my rights secured by the 1849 Treaty [of] Friendship, Commerce, and Navigation between the United States and the Hawaiian Kingdom.

Mr. Larsen goes on to explain how he views the role of the Hawaiian Kingdom in this situation:

[T]he Hawaiian Kingdom, by allowing the unlawful imposition of American municipal laws over my person within the territorial jurisdiction of the Hawaiian Kingdom, [is] in violation of the 1849 Treaty of Friendship, Commerce, and Navigation between the United States and the Hawaiian Kingdom.

Mr. Larsen ends his petition requesting assistance from the acting Office of the Regent:

I now humbly petition David Keanu Sai, Regent, *pro tempore* of the Hawaiian Kingdom, to intervene or otherwise aid in my attempts to procure justice for myself, and specifically to take appropriate steps to end the unlawful imposition of American municipal laws here in the Hawaiian Kingdom.

62. Despite Mr. Larsen's efforts to assert his nationality and to protest the prolonged occupation of his nation, 4 October 1999, Mr. Larsen was illegally imprisoned for his refusal to abide by the laws of the State of Hawaii by State of Hawaii.⁶² At this point, Mr. Larsen became a political prisoner, imprisoned for standing up for his rights as a Hawaiian subject against the United States of America, the occupying power in the prolonged occupation of the Hawaiian islands.

63. While in prison, Mr. Larsen did continue to assert his nationality as a Hawaiian subject, and to protest the unlawful imposition of American laws over his person by filing a Writ of Habeus Corpus with the Circuit Court of the Third Circuit, Hilo Division, State of Hawaii.⁶³

64. Upon release from incarceration, Mr. Larsen was forced to pay additional fines to the State of Hawaii in order to avoid further imprisonment for asserting his rights as a Hawaiian subject.⁶⁴

65. On 4 January 2000, pursuant to Article 4 of the Constitution of the Hawaiian Kingdom of 1864, Mr. Larsen formally petitioned the Council of Regency, by and through his attorney, a third time for assistance in his efforts to assert his Nationality as a Hawaiian Subject, and to protest the unlawful imposition of American laws over his person.⁶⁵ In Mr. Larsen's third petition, his attorney informs and updates the Council of Regency as to Mr. Larsen's continual efforts to assert his Nationality as a Hawaiian Subject, and to protest the unlawful imposition of American laws over his person, and makes the following request:

I would like to urge the Council of Regency at this time to intervene in some fashion in either or both of [Mr. Larsen's] cases. We initiated International Arbitration at the Permanent Court of Arbitration, with your gracious consent, in order to force your hand to protect the interests of Mr. Larsen. While Arbitration continues to proceed though, Mr. Larsen continues to suffer the consequences of an illegitimate government imposing its laws over his person. Please take some

action, as you deem appropriate, on Mr. Larsen's behalf, in order to help alleviate the situation.

66. Mr. Larsen's rights as a Hawaiian subject continue to be violated by the systematic denial of his nationality and the systematic imposition of American laws over his person. Mr. Larsen will continue to suffer these injuries until the occupation of the Hawaiian islands comes to an end.

STATEMENT OF CLAIM

67. This Arbitral Tribunal has been convened to determine, on the basis of international law, whether

(1) the rights of the Claimant under international law as a Hawaiian subject are being violated, and if so,

(2) does he have any redress against the Respondent Government of the Hawaiian Kingdom?

68. As the Claimant, Mr. Larsen submits the following responses to the Arbitral tribunal as his position:

(1) Yes, Mr. Larsen's rights as a Hawaiian subject are being violated under international law as a result of the prolonged occupation of the Hawaiian islands by the United States of America.

(2) Yes, Mr. Larsen does have redress against the Respondent Government of the Hawaiian Kingdom, as his government has obligations and duties to protect the rights of Hawaiian subjects even in times of war and occupation.

69. Mr. Larsen rests his case for these submissions on the following grounds:

1. Mr. Larsen is a Hawaiian subject, with a Hawaiian nationality.

2. As a Hawaiian subject, Mr. Larsen is bound by Hawaiian Kingdom law. He is not bound by the laws of the State of Hawaii nor by the laws of the United States of America.

3. Mr. Larsen's rights as a Hawaiian subject have been systematically and continuously denied by the United States of America, the occupying force in the prolonged occupation of the Hawaiian islands by the United States of America. At a minimum, the United States of America has continually denied Mr. Larsen's nationality as a Hawaiian subject, has illegally imposed American laws over his person, has extorted monetary fines from Mr. Larsen under threat of imprisonment, and has imprisoned Mr. Larsen for asserting his lawful rights as a Hawaiian national.

4. The government of the Hawaiian Kingdom has a duty to protect the rights of Mr. Larsen, a Hawaiian subject, despite the continued occupation of the Hawaiian Islands by the United States of America.

5. The government of the Hawaiian Kingdom, through its acting Regency, has not fulfilled this duty.

The legal support for each of these arguments follows.

CHAPTER I

Mr. Larsen's rights as a Hawaiian subject violated under international law as a result of the prolonged occupation of the Hawaiian islands by the United States of America.

70. The prolonged occupation of the Hawaiian islands by the United States of America has resulted in grave violations of Mr. Larsen's rights as a Hawaiian subject.

71. Mr. Larsen's rights as a Hawaiian subject are protected, even in times of occupation by several international instruments including the fourth 1907 Hague Convention,⁶⁶ the Universal Declaration of Human Rights of 1948, and the fourth 1949 Geneva Convention.⁶⁷ Mr. Larsen's rights as a Hawaiian subject are also protected by the Constitution, laws, and treaties of the Hawaiian Kingdom.

72. Mr. Larsen's rights as a Hawaiian subject are being violated in two distinct manners. First, his rights *to* his nationality are being violated. In other words, Mr. Larsen's rights to enjoy his status as a Hawaiian subject are being denied as a result of the prolonged occupation of the Hawaiian islands. Second, his rights *as* a Hawaiian subject are being violated. In other words, the rights and privileges that Mr. Larsen is entitled to as a Hawaiian subject have been denied as a result of the prolonged occupation of the Hawaiian islands.

73. The Universal Declaration of Human Rights confirms that "Everyone has the right to a nationality," and that "no one shall be arbitrarily deprived of his nationality."⁶⁸

74. Even in times of occupation, the nationals of the nation being occupied retain their nationality. Under both the Fourth Hague Convention of 1907 and the Fourth Geneva Convention of 1949, it is illegal for occupying forces "to compel the inhabitants of occupied territory to swear allegiance to the hostile Power."⁶⁹ As Keith states in his work on international law "the local inhabitants do not owe the occupant even temporary allegiance; and the national character of the locality is not legally changed."⁷⁰

75. Because Mr. Larsen has never naturalized to become an American citizen, he remains bound, under international law, by the laws of the Hawaiian Kingdom. Article 43 of the Fourth Hague Convention of 1907⁷¹ and Article 64 of the Fourth Geneva Convention of 1949⁷² both confirm that the laws of the Hawaiian Kingdom remain in effect despite the occupation of the Hawaiian island by the United States of America.

76. Because Mr. Larsen is not a national of the Occupying Power, he is not bound by the laws of the United States of America and/or the laws of the State of Hawaii.⁷³

77. Under the Fourth Geneva Convention of 1949, even when the occupying power sets up its own courts, those courts must apply the laws in force in the country before the occupation began. Article 67 reads: "The courts shall apply those provisions of law which were applicable prior to the offence, and which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence."

78. Under these international laws, all courts established by the United States of America within the so-called State of Hawaii should be applying the laws of the Hawaiian Kingdom. Only

those Hawaiian Kingdom laws that threaten the security of the Occupying Power or that discriminate against any protected persons may be disregarded.⁷⁴ Thus the imposition of American municipal laws over Mr. Larsen, instead of the laws of the Hawaiian Kingdom, constitutes a violation of Mr. Larsen's rights as a Hawaiian subject.

79. In addition, the courts and judicial officers of the occupying power are required to recognize the nationality of those people brought into their jurisdiction. Article 67 of the Fourth Geneva Convention also sets forth this requirement as law: "[The courts] shall take into consideration the fact that the accused is not a national of the Occupying Power." Pictet, in his work on the Geneva Conventions of 1949 illustrates this requirement as follows:

before sentencing a protected person to any penalty the courts of the Occupying Power must take into consideration the fact that the accused is not its national and consequently does not owe it allegiance. An act which would be odious treachery if carried out by a national of the Occupying Power, in view of the offender's duties of allegiance to the State to which he belongs, is of an entirely different nature when it is committed by a person who is not a national of that Power. Not only can the perpetrator of the act no longer be regarded as a traitor, but, on the contrary, the patriotic sentiments which animate him and may have caused him to act in a manner detrimental to the enemies of his country, deserve consideration. His honourable motives must be taken into account when deciding on the penalty for an act which the laws of war authorize the Occupying Power to punish."⁷⁵

80. The requirement that courts of the occupying power acknowledge the nationality of the accused is especially relevant in the instant case where the courts of the Occupying Power are charging Mr. Larsen with conduct that was motivated by his "honourable motives" and his "patriotic sentiments" which have caused him to live in accordance with Hawaiian Kingdom law, despite the prolonged occupation of the Hawaiian islands. Put another way, under the laws of the Hawaiian Kingdom, which are still in force and effect, Mr. Larsen has committed no crime. But his loyalty to the laws of his own nation is criminal behavior under the laws of the Occupying Power. Thus it is precisely Mr. Larsen's decision to live as a Hawaiian subject within the occupied Hawaiian Kingdom that has resulted in his illegal prosecution and imprisonment by the State of Hawaii.

81. Despite the international requirements that the United States of America respect the nationality of Mr. Larsen, the United States of America, by and through its political subdivision, the State of Hawaii has consistently denied or refused to recognize Mr. Larsen's nationality. Specifically, those police officers who have pulled Mr. Larsen over for failure to abide by the traffic laws of the State of Hawaii,⁷⁶ those court personnel and judges that have refused to acknowledge Mr. Larsen's nationality at court appearances,⁷⁷ those judges that have levied fines against Mr. Larsen for following Hawaiian Kingdom driving laws rather than the laws of the State of Hawaii,⁷⁸ and those judges that have imprisoned Mr. Larsen for his efforts to assert his nationality⁷⁹ have all violated Mr. Larsen's rights as a Hawaiian subject, by refusing to acknowledge his nationality.

82. When Judge Sandra Schutte imprisoned Mr. Larsen for his decision to drive under the laws of the Hawaiian Kingdom, she not only applied the wrong law (United States law instead of Hawaiian Kingdom law), and violated his rights as a Hawaiian subject (by ignoring his nationality), she also issued a sentence in violation of the Fourth Geneva Convention of 1949 (excessive for the crime). Article 67 reads in part "The courts shall apply only those provisions of law which are in accordance with general principles of law, in particular the principle that the penalty shall be proportionate to the offence." By sending Mr. Larsen to jail for his decision to abide in a peaceful and non-violent manner to the lawful laws of his nation, Judge Sandra Schutte further violated the rights of Mr. Larsen as a Hawaiian national. At this point, Mr. Larsen became

a political prisoner, imprisoned for standing up for his lawful rights as a Hawaiian national within an occupied territory.

83. In sum, the United States of America by and through the State of Hawaii has attempted to extinguish the nationality of Mr. Larsen by criminalizing his attempts to assert and live according to his true nationality. In addition, the United States of America by and through the State of Hawaii has violated the rights of Mr. Larsen by systematically denying his nationality as a Hawaiian subject, by imposing American municipal laws over his person, and by imposing citations, fines and imprisonment over Mr. Larsen for his failure to abide by the laws of the Occupying Power. Despite this harassment, extortion, and illegal imprisonment, Mr. Larsen continues to live according to Hawaiian Kingdom law.

CHAPTER II

The Hawaiian Kingdom's Obligation to Protect the Rights of Mr. Larsen as a Hawaiian Subject Even In Times of War and Occupation

84. The Respondent Government of the Hawaiian Kingdom, by and through the acting Council of Regency, has an obligation to protect the rights of Mr. Larsen, a Hawaiian subject, even in times of war and occupation.

85. The Government of the Hawaiian Kingdom's obligation to protect the rights of Mr. Larsen as a Hawaiian subject is evidenced in all of the laws and statutes that have been enacted by the government for the good of its subject, including the Constitution of the Hawaiian Kingdom, 1864; the Civil Code of the Hawaiian Kingdom, and the Penal Code of the Hawaiian Kingdom.

86. The Government of the Hawaiian Kingdom's obligation to protect the rights of Mr. Larsen as a Hawaiian subject, as well as the rights of foreign nationals residing within the Hawaiian Kingdom, is also evidenced through the government's entering into international treaties with foreign nations.⁸⁰ For example, by signing and ratifying the Treaty of Friendship, Commerce, and Navigation between the United States of America and the Hawaiian Kingdom, the government of the Hawaiian Kingdom agreed that only Hawaiian Kingdom law would apply in the Hawaiian islands: "and each of the two contracting parties engages that the citizens or subjects of the other residing in their respective States shall enjoy their property and personal security in as full and ample a manner as their own citizens or subjects . . . but subject always to the laws and statutes of the two countries, respectively."⁸¹

87. The Hawaiian Kingdom government's obligations and duties with respect to its subjects has also been confirmed by the Supreme Court of the Hawaiian Kingdom.⁸²

88. The acting Council of Regency assumed these duties and responsibilities by re-establishing the government of the Hawaiian Kingdom.⁸³

89. The acting Council of Regency has acknowledged Mr. Larsen as a Hawaiian subject.⁸⁴

90. As Mr. Larsen's government, the government of the Hawaiian Kingdom has an obligation under international law to take measures to stop the continual violation of his rights as a Hawaiian subject. This includes taking steps to end the occupation of the Hawaiian islands and the imposition of American laws over his person. Specifically, Article 5 of the Fifth Hague Convention of 1907,⁸⁵ sets forth as law the requirement that "A neutral Power must not allow any of the acts referred to in Articles 2 to 4 to occur on its territory."

91. The Declaration on Principles of International Law concerning Friendly Relations and Co-Operation among States in Accordance with the Charter of the United Nations (1970) also supports Mr. Larsen's requests for assistance and demands for redress: This Declaration prescribes states' duties as follows:

Every State has the duty to refrain from any forcible action which deprives peoples . . . of their right to self-determination and freedom and independence. In their actions against, and resistance to, such forcible action in pursuit of the exercise of their rights to self-determination, such peoples are entitled to seek and to receive support.⁸⁶

Thus the government of the Hawaiian Kingdom also has a duty to protect Mr. Larsen, despite his nationality as a Hawaiian subject, because he is seeking his rights to self-determination, freedom and independence. As explained by Benvenisti, in his work on occupied territories, "the peoples deprived of their enumerated rights are entitled . . . to struggle to secure them with the aim of removing the existing institutions, while other states have the duty to aid such actions."⁸⁷

92. The Charter of Economic Rights and Duties of States (1974) further codifies the obligations of the Hawaiian Kingdom to intervene to protect Mr. Larsen's rights: "[i]t is the . . . duty of all States, individually and collectively, to eliminate colonialism, apartheid, racial discrimination, neo-colonialism and all forms of foreign aggression, occupation and domination, and the economic and social consequences thereof."⁸⁸

93. As reported in the Statement of Facts Supporting Claim, on three separate occasions, Mr. Larsen has petitioned the acting Council of Regency seeking assistance in his efforts to assert his nationality and to end the unlawful imposition of American laws over his person.⁸⁹

94. While Keanu Sai, acting Minister of the Interior for the Hawaiian Kingdom, did appear in Puna District Court, on the island of Hawai'i, and did testify as an expert witness on Mr. Larsen's behalf,⁹⁰ this action did not prevent the continual imposition of American laws over Mr. Larsen. Indeed shortly thereafter Mr. Larsen was sent to jail by the State of Hawaii because of his efforts to assert his nationality and follow Hawaiian Kingdom law.⁹¹

95. In order to fully protect Mr. Larsen's rights, the Hawaiian Kingdom must take appropriate steps to end the prolonged occupation of the Hawaiian islands, for as long as the occupation continues, Mr. Larsen's rights will still be violated.

CONCLUSION TO PART TWO

96. In sum, because of the prolonged occupation of the Hawaiian islands, and the resulting denial of his nationality as a Hawaiian subject and imposition of American laws over his person, Mr. Larsen's rights have been violated under international law. Mr. Larsen's government, the government of the Hawaiian Kingdom, has a duty under both domestic and international law to protect the rights of Mr. Larsen as well as all Hawaiian subjects. While Mr. Larsen has requested assistance from the acting Council of Regency, the occupation and corresponding violation of his rights continues today. It is Claimant's position that he does have redress against his government for failing to fulfill its obligations towards him.

Part Three
SUBMISSIONS

In view of the facts and arguments set forth in this Memorial,

Mr. Larsen requests the Arbitral Tribunal to adjudge and declare that

1. Mr. Larsen's rights as a Hawaiian subject are being violated under international law as a result of the prolonged occupation of the Hawaiian islands by the United States of America.
2. Mr. Larsen does have redress against the Respondent Government of the Hawaiian Kingdom, as his government has obligations and duties to protect the rights of Hawaiian subjects even in times of war and occupation.

Upon affirmation of these submissions, Mr. Larsen further requests from the Arbitral Tribunal any clarification on *what types* of redress are available to him, specifically any redress, above and beyond petitioning the Council of Regency, that may force his government to end the prolonged occupation of the Hawaiian islands. For example, the Hawaiian Kingdom could appoint Protecting Powers in accordance with the Fourth Geneva Convention of 1949 to help protect Claimant's rights,² or could submit a peace treaty to the United States of America which would end the prolonged occupation. Claimant respectfully looks to the Arbitral Tribunal to comment on the types of redress that are available to him.

Respectfully submitted, this 22 day of June, 2000,

Ninia Stacia Parks
Attorney for Claimant Lance Paul Larsen

¹ Annex 1: "Agreement Between Plaintiff Lance Paul Larsen and Defendant Hawaiian Kingdom to Submit the Dispute to Final and Binding Arbitration at the Permanent Court of Arbitration at the Hague, The Netherlands," 30 October 1999.

² Annex 2: First Petition for Redress of Grievances from Mr. Larsen to the Hawaiian Kingdom, requesting a "Support Letter," 20 April 1998.

³ Annex 3: Second Petition for Redress of Grievances from Mr. Larsen to the Hawaiian Kingdom, entitled "Petition for Redress of Grievances, 31 August 1999."

⁴ Annex 4: Third Petition for Redress of Grievances from Mr. Larsen to the Hawaiian Kingdom, requesting intervention in Mr. Larsen's cases with the State of Hawaii, 4 January 2000.

⁵ Annex 5: "Complaint for Injunctive Relief; Declaration of Ninia Parks," filed 4 August 1999.

⁶ See Annex 1.

⁷ Annex 6: “Stipulated Settlement Agreement Dismissing Entire Case Without Prejudice as to All Parties and All Issues and Submitting All Issues to Binding Arbitration,” filed 5 November 1999.

⁸ Annex 7: “Notice of Arbitration to Initiate Recourse to Arbitral Proceedings in Compliance With the Permanent Court of Arbitration Optional Rules For Arbitrating Disputes Between Two Parties of Which Only One is a State,” 8 November 1999.

⁹ Annex 8: “First Amendment to Notice of Arbitration to Initiate Recourse to Arbitral Proceedings in Compliance with the UNCITRAL Arbitration Rules as at Present in Force,” 3 December 1999.

¹⁰ Annex 9: “Special Agreement,” 25 January 2000.

¹¹ Annex 10: “Amendment to Special Agreement of January 25, 2000,” dated 28 February 2000.

¹² Annex 11: Joint letter from the parties regarding “Agreement to Extend Submission of Memorials another 30 days,” 19 April 2000.

¹³ Annex 12: “Declaration of Great Britain and France relative to the independence of the Sandwich Islands, London, November 28, 1843.”

¹⁴ Annex 13.

¹⁵ Annex 14.

¹⁶ Annex 15.

¹⁷ Annex 16.

¹⁸ Annex 17.

¹⁹ Annex 18.

²⁰ Annex 19. Dispatch from John L. Stevens, Envoy Extraordinary and Minister Plenipotentiary of the United States, to United States Legation, Honolulu, Hawaiian Islands, 17 January 1893.

²¹ Annex 20: Photograph from the Bishop Museum, Honolulu Hawaii of the beginning of the military occupation of the Hawaiian islands by the United States. The photograph is of U.S. troops posing in front of Ali`iolani Hale on 17 January 1893.

²² Annex 21.

²³ Annex 22.

²⁴ Annex 23: Correspondence from United States Secretary of State W. Q. Gresham to Hon. James H. Blount, describing the task assigned to Blount, 11 March 1893.

²⁵ Annex 24.

²⁶ Annex 25.

²⁷ Annex 26: Reprinted in Hawaii’s Story by Hawaii’s Queen, written by Queen Lili`uokalani (1898).

²⁸ “Memorial To the President, the Congress and the People of the United States of America,” also submitted to the United States Senate to oppose annexation, 8 October 1897.

²⁹ In 1959 the United States of America passed domestic legislation which created a political subdivision named “the State of Hawaii” through which it imposes local United States laws within the Hawaiian Islands. See An Act to Provide for the Admission of the State of Hawai’i into the Union, U.S. Statutes at Large 73 (March 18, 1959).

³⁰ See Annex 24, page 452.

³¹ Annex 29, 4 October 1988.

³² Id. at page 321.

³³ Id.

³⁴ Annex 30, 25 November 1996, page 321.

³⁵ Id. at III. A.

³⁶ Id.

³⁷ Annex 31.

³⁸ Annex 32: Excerpts from “Interim Report, Kanaka Maoli Nation, Plaintiff v. United States of America, Defendant,” 20 August 1993.

³⁹ Annex 33: “Ka Ho’okolokolonui Kanaka Maoli,” February 1994, page 6.

⁴⁰ Annex 34: “Certificate of Live Birth,” issued by the “Territory of Hawaii.”

⁴¹ Annex 35: “Affidavit of Lance Paul Larsen,” 19 April 1999. Claimant inherits his nationality as a Hawaiian subject from his father, Paul Charles Larsen, his paternal grandparents, Eilzabeth Rodrigues and Paul Charles Larsen, his great-grandparents, Marion Tilton and Alexander Rodrigues, and his great-great-grandparents Maryann “Meleana” Kaahanui and William John Kaahanui, who were all Hawaiian subjects of aboriginal blood.

⁴² Mr. Larsen’s address is P.O. Box 87, Mountain View, Hawai’i 96771.

⁴³ Annex 36: “An Act to Regulate the Carrying of Passengers and Freight and the Letting to Hire of Carriages, Wagons, Carts, Drays, and other Vehicles in the District Of Honolulu,” 5 August 1878. According to Hawaiian Kingdom law, Mr. Larsen’s driving is unregulated as Mr. Larsen does not drive his truck for hire.

⁴⁴ Annex 37: Photograph of the placard mounted on the back of Mr. Larsen’s truck.

⁴⁵ Annex 38: “Affidavit of Lance Paul Larsen,” 29 November 1997.

⁴⁶ Mr. Larsen has received hundreds of tickets and citations on account of his observing Hawaiian Kingdom law. Annex 39 contains photocopies of a few of these “Complain & Summons” received by Mr. Larsen.

⁴⁷ Annex 40: “Exparte Motion to Dismiss Any and All Traffic Citations and Complaints As Against Defendant,” filed in the District Court of the Third Circuit, Puna Division, State of Hawaii on 19 April 1999 (“This court and the allege plaintiff cannot hear this case because of the depth and complexities and nature of this case involving . . . treaty violations, Hawaiian subjects . . . international laws”); Annex 41: “Supplemental Memorandum in Support of Motion to Dismiss For Lack of Jurisdiction,” filed in the District Court of the First Circuit, Honolulu Division, State of Hawaii on 6 July 1999 (“[T]his court lacks the authority to proceed in this case against the allege defendant”); Annex 42: “Motion to Dismiss,” filed in the District Court of the Third Circuit, Hilo Division, State of Hawaii on 12 August 1999 (“This court and prosecutor does not have jurisdiction over Lance Paul Larsen, a Hawaiian subject according to the Treaty of 1850 which is international law with regards to prosecutorial authority in this case.”); Annex 43: “Motion to Dismiss For Lack of Jurisdiction,” filed in the District Court of the Third Circuit, Puna Division, State of Hawaii, on 7 October 1999 (“The case before this court cannot be heard because Lance Paul Larsen is a subject of the Hawaiian Kingdom.”).

⁴⁸ Annex 44: “Transcript of Proceedings before the Honorable Sandra Schutte, Judge presiding, Puna Division, on Tuesday, May 11, 1999;” Annex 45: “Transcript of Proceedings before the Honorable Sandra Schutte, Judge presiding, Puna Division, on Tuesday, September 14, 1999;” Annex 46: “Transcript of Proceedings before the Honorable Jeffrey Choi, Judge, Puna Division, presiding, on Tuesday, December 7, 1999.”

⁴⁹ Annex 47: “Memorandum in Opposition to Defendant’s Motion to Dismiss” filed in the District Court of the Third Circuit, Puna Division, State of Hawaii, 14 June 1999. Annex 48: “Memorandum in Opposition to Defendant’s Motion to Dismiss,” filed in the District Court of the Third Circuit, Puna Division, State of Hawaii, 29 October, 1999.

⁵⁰ Annex 49: Correspondences from the State of Hawaii, Department of the Attorney General, notifying Mr. Larsen of his recent convictions, 29 March 1999.

⁵¹ Respondent’s address is P.O. Box 2194, Honolulu, Hawai’i 96805-2194.

⁵² Annex 50: the Proclamation ran in the Mid-March 1998 edition of *The Hawaiian News*, p. 10-11.

⁵³ Annex 51: the Voter solicitation also ran in the Mid-March 1998 edition of *The Hawaiian News*, p. 11.

⁵⁴ Annex 52: “Hawaiian Kingdom Office of the Regent, *Pro Tempore* 1998 Voter Registrants Personal Data” for Mr. Larsen, 16 April, 1998; Annex 53: “Election Qualification Statement” for Mr. Larsen, 16 April 1998.

⁵⁵ “All men shall have the right, in an orderly and peaceable manner, to assemble, without arms, to consult upon the common good, and to petition the King or Legislative Assembly for redress of grievances.”

⁵⁶ See Annex 2.

⁵⁷ Annex 54: “Transcript of Proceedings before the Honorable Sandra Schutte, Judge, Puna Division, presiding, on Friday, June 18, 1999.”

⁵⁸ *Id.* at pages 19-21.

⁵⁹ *Id.* at pages 31-33.

⁶⁰ See Annex 5.

⁶¹ See Annex 3.

⁶² Annex 55: “Transcript of Videotaped Proceedings before the honorable Sandra Schutte, Judge presiding, Hilo Division, on Monday, October 4, 1999.”

⁶³ Annex 56: “Amended Petition to Vacate Judgment and to Release Prisoner from Custody,” filed on 14 October 1999.

⁶⁴ Annex 57: “Official Receipt of the Judiciary, District Court of the Third Circuit, North/South Hilo and Puna Divisions,” 10 January 2000; Annex 58: “Official Receipt of the Judiciary, District Court of the Third Circuit, North/South Hilo and Puna Divisions,” 28 January 2000.

⁶⁵ See Annex 4.

⁶⁶ Respecting the Laws and Customs of War on Land, concluded and signed at The Hague on 18 October 1907.

⁶⁷ Relative to the Protection of Civilian Persons in Time of War, concluded and signed at Geneva, 12 August 1949.

⁶⁸ Article 15. It is now accepted international law that multilateral humanitarian conventions do apply as binding in times of occupation. See GA Res. 2444 (XXIII) (Dec. 19, 1968) (adopted unanimously), which is on respect for human rights in armed conflicts generally; See also 1971 ICJ REP. at 55;

⁶⁹ See Fourth Hague Convention of 1907, Article 45: “[A belligerent] is forbidden to compel the inhabitants of occupied territory to swear allegiance to the hostile Power.” See also Fourth Geneva Convention, Article 4, which guarantees the nationality of “protected persons,” or those persons who “find themselves, in the case of . . . occupation, in the hands of a[n] . . . Occupying power of which they are not nationals.” See also, Article 27: because he is a “Protected Person,” Mr. Larsen is “entitled, in all circumstances, to respect for [his] person, [his] honour, [his] family rights, [his] religious convictions and practices, and [his] manners and customs. [He] shall be protected especially against all acts of violence or threats thereof and against insults and public curiosity” and he “shall be treated with the same consideration by the Party to the conflict in whose power [he is], without any adverse distinction based, in particular, on race, religion or political opinion.”

⁷⁰ A. B. Keith, *Wheaton’s International Law*, p. 234.

⁷¹ “The authority of the legitimate power having in fact passed into the hands of the occupant, the latter shall take all measures in his power to restore, and ensure, as far as possible, public order and safety, while respecting, unless absolutely prevented, the laws in force in the country.”

⁷² “The penal laws of the occupied territory shall remain in force, with the exception that they may be repealed or suspended by the Occupying Power in cases where they constitute a threat to its security or an obstacle to the application of the present Convention.”

⁷³ Article 45, Fourth Hague Convention, n. 67 supra; Article 68, Fourth Geneva Convention of 1949 (“ . . . since the accused is not a national of the Occupying Power, he is not bound to it by any duty of allegiance.”); See e.g. United Nations Security Council resolution 497 (1981) in which the Council *inter alia* decided that the Israeli decision to impose its laws, jurisdiction and

administration on the occupied Syrian Golan was null and void and without international legal effect, and demanded that Israel, the occupying Power, should rescind forthwith its decision.

⁷⁴ The second paragraph of Article 64 reads “The Occupying Power may, however subject the population of the occupied territory to provisions which are essential to fulfill its obligations under the present Convention, to maintain the orderly government of the territory, and to ensure the security of the Occupying Power, of the members and property of the occupying forces or administration, and likewise of the establishments and lines of communications used by them.” See also J.S. Pictet, *Commentary to the Geneva Conventions of 12 August 1949* (1958) p. 336 (“this means that when the penal legislation of the occupied territory conflicts with the provisions of the Convention, the Convention must prevail. These two exceptions are of a strictly limitative nature. The occupation authorities cannot abrogate or suspend the penal laws for any other reason- and not, in particular, merely to make it accord with their own legal concepts.”)

⁷⁵ J.S. Pictet, *Commentary to the Geneva Conventions of 12 August 1949* (1958) p. 342.

⁷⁶ See Annex 39.

⁷⁷ See Annexes 44-46, 53.

⁷⁸ See Annex 49.

⁷⁹ Specifically Judge Sandra Schutte, See Annex 54.

⁸⁰ The Hawaiian Kingdom currently has treaties with the United States, Belgium, Denmark, France, Germany, the United Kingdom, Italy, Japan, the Netherlands, Portugal, Russia, Samoa, Spain, Switzerland, Sweden, and Norway.

⁸¹ See Annex 13 Article VIII, p. 408.

⁸² See *Rex v. Booth*, 2 Haw. 616 at 628-631 (1863) (“The voice of absolute authority decreed that, in the future the King would conduct his Government for the common good . . . and that in making laws for the nation, regard should be had to the protection, interest and welfare of the common people.”).

⁸³ See notes 51-52, *infra*, and accompanying text.

⁸⁴ See note 53, *infra*, and accompanying Annexes and text.

⁸⁵ *Respecting the Rights and Duties of Neutral Powers and Persons in Case of War on Land*, concluded and signed at The Hague, 18 October 1907.

⁸⁶ General Assembly Resolution 2625 (XXV) of 24 October 1970, p. 24.

⁸⁷ E. Benvenisti, *The International Law of Occupation* (1993) p. 186.

⁸⁸ General Assembly Resolution 3281 (XXIX) 12 December 1974, Article 16(1).

⁸⁹ See Annexes 2, 3, 4, and note 54, 59, and 63, *infra* and accompanying text.

⁹⁰ See Annex 53, and note 55, *infra*, and accompanying text.

⁹¹ See Annex 54, and note 60, *infra*, and accompanying text.

⁹² Article 9: “The present Convention shall be applied with the co-operation and under the scrutiny of the Protecting Powers whose duty is to safeguard the interests of the Parties to the conflict.” Under Article 30 the Protecting Power has direct access to the occupied population, most of whom are Protected Persons.