



His Majesty Edmund K. Silva, Jr.
Nou Ke Akua Ke Aupuni O Hawai'i

October 2, 2015

To: Pelekikena Barack H. Obama
1600 Pennsylvania Avenue, NW
Washington, DC 20500

Info: Secretary of the Interior Sarah Margaret Roffey Jewell
The U.S. Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Aloha mai kāua e President Obama,

There are two processes underway in Hawai'i that supposedly address the political future of people with original Hawaiian ancestry, whom I will call Native Hawaiians, knowing how that term has been abused in the past.

One process – Na'i Aupuni – is a State sponsored process in which Native Hawaiians must first be registered on rolls created primarily by the Office of Hawaiian Affairs, a State agency, and the State of Hawai'i through legislation.

Those enrolled can then vote to elect delegates to a convention or *Aha*.

The convention will then examine models for future governance within the Native Hawaiian community and any potential relationship between a Native Hawaiian governing entity and the United States.

The second process is a proposed rule issued by your Department of Interior (DoI); that process involves the Department establishing "the administrative procedures and criteria" for "reestablishing" a "government-to-government relationship" between the Native Hawaiian community and the United States."



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http://en.wikipedia.org/wiki/List_of_bilateral_treaties_signed_by_the_Kingdom_of_Hawaii

The United Nations Charter provides the rest of the authority to do it." (An autonomous independent sovereign nation-state contemplated under Article 1 of the 1933 Montevideo Convention on Rights and Duties of States requiring the state as a person of international law possessing the four qualifications of (a) a permanent population, (b) a defined territory, c) government; and (d) capacity to enter into relations with the other states.)

https://www.federalregister.gov/articles/2015/10/01/2015-24712/procedures-for-reestablishing-a-formal-government-to-government-relationship-with-the-native?utm_campaign=pi+subscription+mailing+list&utm_medium=email&utm_source=federalregister.gov#print_view

You do not have to go beyond the actual title that the Department of Interior gives to their proposed rule to see the lie underlying this entire process. There never was a government-to-government relationship between the Native Hawaiians and the United States. The relationship was a nation-to-nation relationship embodied in treaties between the Kingdom of Hawai'i and the United States. The Kingdom conducted the relations with the United States Department of State, not the Department of the Interior. The DoI pretends to be "re-establishing" a relationship that never existed in order to avoid discussing the real relationship with the Kingdom.

Frankly, the intent of these two processes to prevent the restoration of the Kingdom of Hawai'i Government is transparent. The outright lies and false narratives that are involved reflect the corrupt foundation upon which these efforts are built. I, of course, refer to the illegal seizure (1893) and forced abdication (1895) of Queen Liliu'okalani. When the United States failed to undo its work in destroying the Kingdom Government, everything that came after was simply the fruit of the poisonous tree.

One of the first lies today is that the Na'i Aupuni process affords Native Hawaiians an opportunity for self-determination. While there are theoretically no restrictions on the form of government the *Aha* can recommend, the DoI proposed rule is quite explicit that, if the *Aha* chooses to restore the Kingdom of Hawai'i, DoI will not approve federal recognition. Elimination of the independence option means that self-determination ends before the conversation begins. This restriction is reminiscent of the phony statehood plebiscite in which the only option was a "yes" or "no" on becoming a state; the plebiscite did not offer an independence option, as international law required.

The self-determination lie is also illuminated by the other conditions and limitations that DoI seeks to impose on the decisions the *Aha* can make.

-- The DoI proposal introduces a potential blood quantum requirement for membership by allowing the exclusion from the nation-within-a-nation of those Native Hawaiians with less than 50% Native Hawaiian ancestry. Such a provision adopted in a United States law would surely be struck down as unconstitutional discrimination.



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DoI, however, gives permission to the Native Hawaiians to exclude even members of their own family, if they are of less than 50% Hawaiian ancestry, from participating in the new “governing” entity.

That positive acceptance does explicitly create a scenario in which Native Hawaiians of less than 50% ancestry participate in the election of a convention that then ends up creating a governing document that excludes them from membership. Injecting the blood quantum requirement is just a further attempt to achieve separation within the Native Hawaiian community and the Kingdom.

-- The new government entity must separate the legislative and judicial bodies. The Native Hawaiians are not free to establish their own form of government based on their traditional civilization because in that civilization legislative and judicial bodies were not separate.

-- The new government must include and maintain the unique status and separate rights of Hawaiians eligible for the Hawaiian Homes Commission Act (HHCA). The key eligibility criteria is having 50% Hawaiian ancestry or higher. **The United States, with a constitutional amendment that says everyone is entitled to equal protection of the law, would require the new Hawaiian entity to set apart one group for special privileges. While the Kingdom might well adopt laws based on the historical promises made to the HHCA-eligible subjects, that is an internal matter to be resolved by real self-determination, not foreign dictates.**

-- If there is a referendum on the proposed new governing document, the HHCA eligible voters would have their votes counted separately with an affirmative vote of 15,000 votes or 14.64% of the eligible HHCA voters satisfying the “broad based community support” requirement. At the same time, an affirmative vote of only 9,000 HHCA votes would be unacceptable, which means that 9,001 or 8.76% of eligible HHCA voters would be acceptable.

The DoI proposal, therefore, gives a veto over the whole process to the HHCA-eligible voters. No matter how many people vote or how many affirmative votes there are, the proposition will only pass if the HHCA-eligible voters approve and turn out in sufficient numbers to meet the DoI test for community acceptance.



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One group is given special rights and privileges, if the new governing entity is created, and has veto power over the outcome of the *Aha*. Clearly the DoI believes that it can control the HHCA vote to prevent the adoption of an *Aha* result that DoI does not approve or further the approval of a result that DoI does approve.

If there is a referendum, a total affirmative vote of 50,000 or 14.64% of all eligible Native Hawaiian voters would satisfy the community support requirement. At the same time, an affirmative vote of less than 30,000 would be unacceptable, which means that 30,001 or 8.76% is still acceptable.

The elimination of the Kingdom option will lead to numerous voters not participating in the referendum.

DoI compensates for this potential by setting the thresholds for acceptance very low. The low threshold for affirmative votes enables a tiny minority of Native Hawaiians to create the new entity.

Again, imagine such a law in your country specifying that a referendum would fail, if a majority of a small group of all voters eligible to participate did not approve. Your Supreme Court struck down a process that allowed only Native Hawaiians to be the electorate for the Office of Hawaiian Affairs trustees. Now DoI would impose a voting process where a minority identified by blood quantum can decide the outcome of an election.

The low vote requirement is perfectly acceptable to a foreign government anxious to eliminate the legitimate claims of the Hawaiian people to full independence.

Establishment of the subordinate governing entity will make full restoration of the Kingdom more difficult. Setting the acceptance level for voting very low increases the chance that the subordinate government will be created.

Yet, if the total vote is so small, a reasonable assumption would be that the vast majority of Native Hawaiians had no expectation that anything they wanted would come from the process, so they did not participate, much like the phony statehood plebiscite in 1959. **Instead, an approval vote by 9% of eligible voters is treated like a mandate.**

I understand that the basic response from your government to that reality is “Who cares?”



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-- The Native Hawaiian Tribe will not qualify for any of the benefits or programs available to Native Americans. The subordinate position of the Native Hawaiian entity within the State of Hawai'i will be mirrored by a subordinate position within the United States as a whole, compared to other tribes. Second class/second class citizenship is the DoI plan for Native Hawaiians.

-- The DoI proposal rules out any change in the title, jurisdiction, or status of any Federal lands, other than Kahoolawe. So other than Kahoolawe, the United States will make no contribution of federal land to establish a land base for the Native Hawaiian entity. **Given that the Kingdom still exists and has jurisdiction over all lands in the Archipelago, this miserly offer by the United States Government is ludicrous and affirms the lack of a serious intent to create a sustainable Native Hawaiian entity.**

-- The DoI rule on gambling is informative. The new Hawaiian entity cannot allow gambling because the new Hawaiian Tribe would not meet the requirements of United States laws allowing gaming and because gambling is illegal in the State of Hawai'i. So the new Hawaiian entity is subject to whatever laws the United States Congress or the State of Hawai'i pass. Nothing could be further from self-determination.

Setting all these preconditions significantly circumscribes what the convention can propose that will secure federal recognition. There is actually no point in the Na'i Aupuni process convening the convention until the final DoI rule is issued and the participants know what conditions they have to satisfy in creating their "governing" document.

While I know that the DoI rule is only proposed, there are obviously some immutable parts of it, like the elimination of Kingdom restoration as an option.

Many of the other conditions or restrictions are so patently offensive and intrusive that I suspect their real goal is to have some proposal emerge from the convention that is defeated, so that the United States can say Hawaiians had their chance and failed to take advantage of the generous offer of tribal citizenship from the United States. Your government can then wash its hands of any responsibility to respond to the initial act of war and the 120 plus years of abuse since that act.

On the other hand, should the new governing entity be created, the United States will be portraying that action as resolving the question of Hawaiian independence. The new "governing" entity will then enter into years of discussions about what it can and cannot do, with the DoI always having the upper hand.



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The descendants of Kingdom subjects not of Hawaiian ancestry will continue to be ignored. I trust that my people will now see clearly the intention of this entire process and refuse to participate or withdraw if they are now engaged.

Don't you think that it is time the United States stopped abusing the Hawaiian people? I know that the National Security State within your government has persuaded you that they can manage the narrative and eliminate the possibility of the Kingdom. Is that also what you want to be part of your legacy – that you successfully denied the Hawaiian people an opportunity to get their nation back?

When you look around the world, do you not see the many movements emerging that call for restoration of independence and real self-government, whether in Catalonia, Puerto Rico, Ireland, Scotland, or numerous other areas? Are these movements not motivated by the same thirst for freedom that animated the civil rights movement in your country?

John F. Kennedy said: "There are risks and costs to action. But they are far less than the long range risks of comfortable inaction".

Nation to Nation, I have extended my hand of aloha more than once to initiate discussions on how to accomplish a peaceful transition to a fully independent Kingdom. I do so again.

E waikāhi ka pono I mānalo

Ua Mau ke Ea o ka 'Aina i ka Pono,



Edmund K. Silva, Jr.

Ali'i Nui Mō'i

cc: Na Kupuna Council O Hawai'i Nei ame Moku
Ali'i Mana'o Nui Lanny Sinkin
Minister of Foreign Affairs



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