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United Nations Permanent Forum on Indigenous Issues



Agenda Item 4 (d)
Human Rights

HAWAII CAUCUS JOINT STATEMENT ON HUMAN RIGHTS

Agreeing Organizations:

Na Koa Ikaika o Ka Lahui Hawai'i
`Ilio`ulaokalani Coalition
Ka Lahui Hawai'i
Kamakakuokalani Center for Hawaiian Studies
Waikiki Hawaiian Civic Club
The Koani Foundation

This is a collective statement of Indigenous peoples organizations from Ka Pae `Aina Hawai'i, the Hawaiian Archipelago. We are Kanaka Maoli, the Indigenous peoples of Hawai'i. In our world view, the people and the land are of the same integrated ancestral lineage. We maintain our inherent human right of self-determination, despite the oppression of colonization and illegal occupation of our land base since January 17, 1893 when our sovereign Kingdom of Hawai'i was overthrown by the military force of the United States. As Kanaka Maoli, we maintain our inalienable rights to, jurisdiction over, and management of our `aina mai uka a i kai, mai kahi pae a kahi pae, which includes lands, waters, submerged lands, air and all life forms, minerals and other resources therein, and assert our kuleana (sacred responsibility) for future generations to malama (care for) these precious treasures. Although, in 1993, the U.S. officially apologized for the 1893 Overthrow, we still have not seen restoration, restitution, or reconciliation for the U.S. breach of our treaties of friendship, suppression of our sovereignty, and denial of our right of self-determination.

I. RECOMMENDATIONS

1. Permanent Forum to advise the UN Decolonization Committee to re-inscribe Hawai'i on the List of Non-Self-Governing Territories. And further advise the UN Decolonization Committee to assist the Kanaka Maoli peoples to be provided the decolonization and self-determination processes and mechanisms of the UN.
2. Permanent Forum to advocate for the adoption of the Declaration on the Rights of Indigenous Peoples with an unqualified right of self-determination. There would be no single greater accomplishment towards the recognition of the human rights of all indigenous peoples than the passage of this Declaration. In order for this to be achieved, we also recommend that the Permanent Forum advocate for the reauthorization of the mandate of the Working Group on the Draft Declaration.

II. DISCUSSION

Today, the organizations joining this statement raise our voices against the latest actions of the U.S. federal government's plans to pass legislation purporting to provide U.S. "federal recognition" to Kanaka Maoli, but instead it creates a process to deny our human right of self-determination and set in motion a final settlement regarding our claims to our lands and natural resources and sovereignty over those lands and resources.

The new U.S. legislation, known as the Akaka Bill, is only the latest action by the U.S. against the Hawaiian peoples rights. The U.S. action is consistent with their position on the both the UN and OAS Draft Declarations on the Rights of Indigenous Peoples. In both of those human rights standard-setting forums the U.S., along with Canada, Australia, and New Zealand, have proposed language to undermine the right of self-determination and instead offer an unconscionable alternative of "internal self-determination." This is the U.S. National Security Council Policy of 2001 towards Indigenous peoples both domestic and abroad, which maintains that Indigenous peoples only have "the right to negotiate their political status within the framework of the existing nation-state" and "does not include a right of independence or permanent sovereignty over natural resources."

Nevertheless, Kanaka Maoli will continue to stand for the unqualified right of self-determination for Indigenous peoples. For a nation such as ours, which was recognized by the family of nations as an independent Kingdom from 1810-1893 until the U.S. Overthrow of our constitutional sovereign, the process of self-determination must provide the three options for political status recognized in UN General Assembly Resolution 1541 of 1960. We continue to call for demilitarization and decolonization of Hawai'i and for our re-inscription on the List of Non-Self-Governing Territories. We join our Pacific Islander brothers and sisters of Guam, also subject to U.S. rule, Te Ao Maohi subject to French rule, Rapa Nui subject to Chilean rule, and Maluku and West Papua subject to Indonesian rule, who continue to call for decolonization and de-militarization.

On April 6, 2004, Kanaka Maoli learned for the first time that new legislation had been unveiled in Washington D.C. that is aimed at forever extinguishing our rights. Many of our peoples are extremely alarmed by the fast track that this bill is taking and the lack of attention to its new crucial provisions, the most important of which is a 20-year time limit regarding our ability to bring claims against the United States. On April 21st, within just two weeks of its public release, the bill passed the Senate Indian Affairs Committee, without a hearing on the drastically changed new language. Only 24-hour notice was given for this hearing. Meanwhile our peoples reside on a land base over 5,000 miles away from the U.S. capitol making it virtually impossible for us to voice our opposition in Washington D.C.

Individuals lobbying for the legislation have said the agreement reached on the Bill was a positive step in the effort of Hawaiians to achieve passage of Federal legislation. Statements such as this from lobbyists purporting to represent the Hawaiian peoples have created the false impression in Hawai'i and Washington D.C. that the Bill is one that is supported by the Hawaiian peoples. Nothing could be further from the truth.

Hearings in Washington D.C. on the last six versions of the bill have only included government officials of the State of Hawai'i. None of these state officials or agencies can speak for the will of the Hawaiian peoples, especially regarding legislation that stands to have the single greatest impact on our rights now and into the future.

Several provisions of this Bill have been made as concessions to the United States and the State of Hawai'i and do not reflect the wishes of the actual Hawaiian community. The amendments that most violate our inherent human right of self-determination include:

1. Forcing a process of reorganizing a Native Hawaiian governing entity that will be recognized by the U.S. as the "representative government of the Native Hawaiian people" whether or not it actually is recognized by the majority of Hawaiians as our legitimate government. This section of the bill displaces and supplants an ongoing process of self-determination being implemented for and by the Kanaka Maoli peoples themselves, known as the Coalition for Native Hawaiian Self-Determination.

Through this proposed legislation, our human right to identify and define who we are is being denied the Hawaiian peoples because a federal governmental agency (Secretary of Interior) will appoint nine (9) people who will determine the criteria that will determine our "Hawaiian-ness". These nine people will also have the power to decide which Hawaiians can be placed on a roll, which will form the basis for participation in forming the new "Native Hawaiian governing entity".

2. The Bill also says that Hawaiians will have 20 years from the date the legislation passes to bring claims into the Federal Courts and only if those claims are current claims under existing Federal law and relating to the political and legal relationship between the U.S. and the Native Hawaiian governing entity. Within 20 years there may not be a Native Hawaiian governing entity in existence to have any claims against the U.S. This also means that the Bill disallows all historic claims relating to the overthrow, loss of treaty rights, past breach of trust, including the failure to marshal, inventory and protect our trust assets; and the loss of Human Rights and fundamental freedoms as evidenced by the Apology Bill passed by the US Congress and signed by the President in 1993. By comparison, Native Americans have access to the Federal courts in perpetuity and also have rights under their Treaties.
3. In the Bill, all rights to our lands, natural resources, assets, existing rights for traditional and customary practice, and governmental authority over those lands and resources are up for negotiation. We have word that the U.S. and State want to provide a small land and cash settlement, and thereafter extinguish all claims and rights on the rest of the lands, much as they did against the Indigenous peoples of Alaska in the 1971 Alaska Native Claims Settlement Act. In that law, the Alaska Natives do not have sovereign governmental authority over their lands. We will not settle for this in Hawai'i. Sovereignty over our land base is not negotiable.

These are only a few of the problems with the new language of the Akaka Bill.

We oppose this Bill and deplore and condemn the closed political process that is being pursued by the State of Hawaii, the U.S., the Federal Delegation and a few groups and agencies who have received hundreds of millions of dollars since Statehood to facilitate political wardship and suppress true Hawaiian self-determination, self-governance and sovereignty.

We have called upon the US Congress to hold open hearings in Hawai'i so that Hawaiians can testify on the measure and open true consultation with the Hawaiian peoples. The latest version of the bill is a betrayal of the Hawaiian peoples and a fast track effort to push through the Congress a law, which will allow the continued oppression and disenfranchisement of Hawaiians.

Self-determination is the right of all peoples to determine their political status and by virtue of that right freely pursue their cultural, social and economic development. We will settle for nothing less.