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**A BLUEPRINT FOR  
NATIVE HAWAIIAN SELF-DETERMINATION  
AND  
LAND CLAIMS**

The Office of Hawaiian Affairs is beginning the process of seeking redress for the illegal overthrow of the Kingdom of Hawai'i in 1893 and the subsequent loss of land and sovereignty. This process will require input from all sectors of the community in order to reach a solution that is just and equitable and which will provide the Hawaiian community with the land and resources it deserves. Community meetings will be conducted to elicit comments and ideas on how to achieve this goal. To initiate this process, the Trustees of the Office of Hawaiians Affairs offer the following blueprint outlining the elements that should be included in legislation that ultimately would be adopted by the United States Congress.

**Purpose of Legislation**

To acknowledge the right of Native Hawaiians to self-determination and a sovereign status, and to provide for the return of lands to Native Hawaiians.

**Basis of Claims**

*and resources*

1. Prior to Western contact, the Native Hawaiian people had developed a society and culture based on mutual trust, sharing and cooperation, and sensitivity to the environment of the Hawaiian islands and their surrounding waters; they had created artworks of great beauty and had developed a religion based on respect for human life and the interrelationship of all living things.
2. Subsequent to Western contact, the Hawaiian islands were united under a single leader and an independent government was formed. This government - the Kingdom of Hawai'i -- was recognized by many foreign governments as an independent sovereign; this independent Hawaiian government entered into agreements and treaties with the United States in 1826, 1849, 1875, and 1887 in which the United States recognized the sovereign independence of the Hawaiian nation and pledged itself to perpetual peace and friendly relations.
3. Nevertheless, in 1893, agents of the United States, with apparent authority to act on behalf of the United States, participated in activities that contributed significantly to the overthrow of Queen Lili'uokalani, the legitimate monarch of the Kingdom of Hawaii. The facts surrounding the overthrow are uncontroverted, and can be summarized from the majority report of the 1981-1983 Native Hawaiians Study Commission:

*[Link to land?]*

President Benjamin Harrison indicated in 1892 that his administration

was "exceedingly sympathetic" to the idea of annexing Hawaii to the United States. John L. Stevens, the U.S. Minister to Hawaii "held strong annexationist views from the beginning, and this was well known in the Hawaiian community." On January 16, 1893, Minister Stevens ordered marines and sailors from the U.S.S. Boston to come ashore at Honolulu. They took up a position between the Government Building and the Palace -- "an ideal location from which to participate in any conflict," and that "their presence provided a psychological support to the revolutionists" and "served to demoralize the monarchists." Minister Stevens recognized the "Provisional Government" of the annexationists before Lili'uokalani had resigned or yielded her authority.

(Native Hawaiians Study Commission Report, Vol. I, p. 289-297).

4. When Queen Lili'uokalani did subsequently surrender, she yielded to the United States government rather than to the rebel troops because she felt confident that the United States would not support such an illegal overthrow but would instead seek to restore her to her throne once the facts about the overthrow were understood in Washington. She issued a formal protest stating that she was surrendering:

. . . to the superior force of the United State of America whose Minister . . . has caused United States troops to be landed at Honolulu and declared that he would support the said Provisional Government. Now to avoid any collision of armed forces, and perhaps the loss of life, I do under this protest and impelled by the said force yield my authority until such time as the Government of the United States shall upon the facts being presented to it undo the action of its representative and reinstate me in the authority which I claim as Constitutional Sovereign of the Hawaiian Islands.

5. President Grover Cleveland did, in fact, conclude that this overthrow was illegal after receiving a report from his special emissary James H. Blount, the former chair of the House Committee on Foreign Affairs, who had spent four months in Honolulu investigating the situation and then recommended that Queen Lili'uokalani be restored to power. In his subsequent message to Congress, President Cleveland observed that Minister Stevens and the military forces of the U.S.S. Boston had acted beyond their proper authority, under the pretense of protecting U.S. life and property. He concluded that the United States should correct such illegal acts by making reparations to the Hawaiian people:

" . . . By an act of war, committed with the participation of the diplomatic representative of the United States and without authority of Congress, the Government of a feeble but friendly and confiding people has been overthrown. A substantial wrong has thus been done which a due regard for our national character as well as the rights of the injured people requires we should endeavor to repair."

(President's Message Relating to the Hawaiian Islands, H.R. Exec. Doc., No. 47, 53rd Cong.2d Sess. IX-XIV (1893).)

6. The overwhelming majority of Native Hawaiians actively opposed the overthrow of the Kingdom of Hawai'i. Native Hawaiians sent petitions to Congress calling for the restoration of the Queen and refused to participate in the provisional government or its successor, the Republic of Hawai'i. In 1895, Native Hawaiians loyal to the monarchy failed in an attempt to regain control of the government, resulting in the arrest of over 200 Native Hawaiians.
7. Despite the efforts of Queen Lili'uokalani, the Native Hawaiian community, and President Cleveland, the U.S. Congress refused to act to redress the illegal actions of the U.S. agents who had militarily aided the overthrow.
8. In 1898, the United States annexed Hawai'i through a joint resolution rather than a treaty, because the supporters of annexation were not able to assemble the two-thirds majority in the U.S. Senate required for ratification. The legal effect of such a joint resolution is still open to question.
9. The participation by agents of the United States, acting with apparent authority of the United States in activities that led to the overthrow of the Kingdom of Hawai'i and the subsequent annexation of Hawai'i, violated the Kingdom of Hawai'i's right to independence and violated the international law principle of nonintervention in the internal affairs of another nation and thus constitutes a wrong against Native Hawaiians which the United States is obligated to redress.
10. As a result of the annexation of Hawai'i, the United States government assumed title to approximately 1.75 million acres of Government and Crown lands that had been held by the Kingdom of Hawai'i in trust for the Hawaiian people. The Crown lands were an integral part of the Hawaiian social and political structure and represented a traditional and common source of wealth for the people as a whole. The Government lands had been specifically set aside by Kamehameha III for the benefit of the chiefs and people. As a result of American intervention in the affairs of the Hawaiian Kingdom, these lands were confiscated by the Provisional Government, transferred to the Republic of Hawai'i, and ultimately were ceded to the United States. This transfer occurred without the consent of the Native Hawaiian people, and without any explicit protection of their interests. To this day, the federal government continues to control large portions of these lands for military and other purposes.
11. After Hawai'i became a state in 1959, about 1.35 million acres of the ceded lands, formerly Government and Crown lands, were transferred from the federal government to the State of Hawai'i with a trust obligation that includes Native Hawaiians as beneficiaries. In 1978, the State recognized its trust

Add

Although previous <sup>limited</sup> programs have benefited N.H.s these should not be viewed as proper redress [because N.H. are foreigner etc]

As a quasi autonomous entity  
New H?

obligation in the State Constitution and established the Office of Hawaiian Affairs, to receive a pro rata share of the revenues from ceded lands. In 1980, the Hawaii State Legislature provided that OHA should receive 20% of the funds derived from these lands. This figure understates the link between Native Hawaiians and these lands and does not adequately compensate them for the loss of these lands. Furthermore, the State has not been forthcoming with the full 20% of the revenues generated by these lands and substantial disputes exist over the manner in which this issue should be resolved.

- 12. The federal government has retained almost 400,000 acres of these ceded lands, as listed in Appendix I. These lands are of great value. Many are in choice locations and all are honored as special lands by Native Hawaiian communities. If these lands had to be purchased at fair market value today, the federal government would have to pay \$ \_\_\_\_\_. If the federal government had to pay rent for these lands since 1898, it would have had to pay \$ \_\_\_\_\_ for the use of these lands.
- 13. Because of the illegal actions of its agents outlined above and because of the enormous benefits it has obtained from the uncompensated use of illegally obtained lands, the United States is obligated:
  - a. to restore to Native Hawaiians a substantial portion of the lands it received in 1898;
  - b. to provide funds and programs <sup>to compensate for previous unpaid and</sup> to allow Native Hawaiians to assume their rightful place in Hawai'i;
  - c. to recognized the right of Native Hawaiians to self-determination and a sovereign status consistent with the cultural and political traditions and current aspirations of the Native Hawaiian community.

Add emphasis on essential link between N.H. & land.

### Land Claims

Pursuant to the obligation of the United States to redress the wrong committed against the Native Hawaiian people through the overthrow of the Kingdom of Hawaii and the subsequent annexation of Hawaii, and pursuant to the commitment of the United States to restore a land base to the Native Hawaiian people, the United States should:

- 1. Return a significant portion of the public lands obtained by the United States at the time of annexation in 1898 and retained by the United States pursuant to the Hawaii Admission Act. Some parcels should be returned immediately while other parcels could be returned over a 5-10 year period. Lands returned may be leased back to the United States, at prevailing market rates, for continued federal use upon a determination by OHA that such use would benefit Native Hawaiians. (Appendix I, list of lands.)
- 2. Transfer title to Volcanoes National Park and Honaunau National Park on the

negotiated

Island of Hawaii and Haleakala National Park on Maui to OHA. These areas would continue to be managed by the National Park Service, in consultation with OHA, for the benefit of Native Hawaiians and all citizens of the United States.

All lands returned would be held in trust and managed for the benefit of Native Hawaiians by OHA. These lands could be alienated but the overall total acreage of lands held in trust must never be less than 90% of its maximum amount. Specific parcels of land in this land trust could be allocated through a fair system of distribution to individual Native Hawaiians (or corporations beneficially controlled by Native Hawaiians) who will be able to exercise free and unlimited domain over such parcels, except that they will not be able to alienate them except to other Native Hawaiians (or corporations beneficially controlled by them). Such lands will continue to be considered part of the land trust.

### **Ceded Lands and Hawaiian Homelands**

Ceded lands currently held by the State and Hawaiian Homelands were originally part of the lands ceded to the United States in 1898. Under the Admission Act, most of the ceded lands and all of the Hawaiian Homelands were given to the State. The United States should recognize the claims of Native Hawaiians to such lands and aid OHA in negotiating with the State and developing legislation to be adopted by the Congress and the State transferring a substantial portion of the ceded lands now controlled by the state and all of Hawaiian Homelands to OHA. All of the functions of the Department of Hawaiian Homelands should also be transferred to OHA. The rights of current beneficiaries of Hawaiian Homelands should not be diminished as a result of such transfer.

*can be increased later*

### **Submerged Lands**

Native Hawaiians have an interest in the living and nonliving resources of submerged lands in the exclusive economic zones surrounding the Hawaiian Islands, Johnston Atoll, Palmyra Island, and Midway Island. In recognition of such interest, the United States should give Native Hawaiians half of all revenues received by the U.S. government from these resources. Native Hawaiians also should be allowed to harvest half of the living resources in these areas. Both the living and nonliving resources should be managed by a Board, half of whom should be appointed by OHA, in an environmentally sensitive manner designed to preserve these resources for future generations.

### **Money**

To compensate Native Hawaiians for the use of ceded lands since 1898 and for the lands it does not return to Native Hawaiians, the United States should pay money to OHA in the amount of \_\_\_\_\_. The money should be held in trust by OHA for the benefit of Native Hawaiians; the principle may be invested and the interest used for the benefit of Native Hawaiians.

## Programs

All existing federal programs benefitting Native Hawaiians should be maintained and expanded in order to meet the health, educational, occupational, and cultural needs of Native Hawaiians. These programs will be monitored and guided by OHA. (Appendix II, list of programs.)

## Taxes

Neither OHA nor any individual Native Hawaiian should be subject to taxation by the United States, the State of Hawaii or its subdivisions, or any other state for the lands, resources, or revenues returned to them, or for any income generated by these lands, resources, or revenues.

## Enrollment of Native Hawaiians

OHA should establish an official roll of Native Hawaiians, including those not residing in Hawaii, for purposes of voting, and receiving benefits, land, and moneys.

## Self-Determination and Sovereignty

The United States should acknowledge that Native Hawaiians have the right to self-determination and the right to govern their affairs in a sovereign status pursuant to their culture, traditions, and current goals. A process should be established to determine the appropriate form through which Native Hawaiians can exercise their right to self-determination. This process should contain the following elements:

1. OHA will be given federal status by Congress while continuing to maintain its powers and authority under state law.
2. OHA, on behalf of Native Hawaiians, will receive all funds and hold title to all lands returned by the federal government.
3. OHA will then initiate the process of developing a document, similar to a constitution, to govern its affairs when acting in its governmental capacity. This document will be drafted at a gathering of representatives consisting of Native Hawaiians elected from single-member districts constituted by OHA in relation to traditional geographical divisions and in order to provide approximately equal representation for all Native Hawaiians, including those living outside the state. The gathering will draft a governing document and then recess for three months during which time hearings will be held in each district to receive comments by Native Hawaiians. The gathering will then reconvene and consider changes and prepare a final document.

The final document will be voted upon by Native Hawaiians and must be ratified by a majority of Native Hawaiians. If this document does not receive

a majority vote, another gathering will be held to consider revisions, followed by a second ratification vote. The necessary funds for these gatherings, the elections of delegates and the ratification elections, and the community meetings will be provided by Congress.

The document drafted may change OHA's name. It may give OHA the power to adopt ordinances for the health, safety, and welfare of Native Hawaiians; the power to levy taxes, zone trust lands, produce income from such lands, and regulate conduct on trust lands; and the power to regulate hunting, fishing, gathering, access and other traditional rights and practices of Native Hawaiians. The instrument will include a procedure whereby it can be amended by an appropriate vote of Native Hawaiians.

*The power to receive and manage other lands;*

4. The United States will agree to recognize OHA, and any successor entity it may evolve into pursuant to the process set forth above, as the sovereign entity of the Native Hawaiian people. The Native Hawaiian sovereign entity will not be under the jurisdiction of or have any involvement with the Bureau of Indian Affairs.

### Preservation of Native Rights

Native rights, including but not limited to beach access, trail access, fishing, hunting and gathering rights, religious practices, and access to historic and cultural sites, will be preserved in perpetuity for future generations of Native Hawaiians.

### Right to Sue

OHA, the sovereign entity, and individual Native Hawaiian should have the right to sue in federal court in order to enforce the provisions of the Congressional legislation.

### Definition of Native Hawaiian

As used in this document, "Native Hawaiian" means any descendent of the aboriginal peoples inhabiting the Hawaiian Islands which exercised sovereignty and subsisted in the Hawaiian Islands in 1778, and which peoples thereafter have continued to reside in Hawaii.