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November 11, 2012

Ms. Navanethem Pillay, United Nations High Commissioner
Office of United Nations High Commissioner for Human Rights
Human Rights Council Branch-Complaint Procedure Unit
OHCHR- Palais Wilson
United Nations Office at Geneva
CH-1211 Geneva 10, Switzerland

Re: Commission of War Crimes in the Hawaiian Islands

Excellency:

On August 10, 2012, I had the honor on behalf of the *acting* government, to bring to the attention of the United Nations General Assembly, by its President, in accordance with Article 35(2) of the Charter of the United Nations, a Protest and Demand of the prolonged occupation of the Hawaiian Kingdom, being a non-Member State of the United Nations. Ms. Hanifa Mezoui, Ph.D., a member of the President's cabinet acknowledged and received the Protest and Documents on a CD. It was brought to my attention that the Protest and Demand was forwarded to the President as well as the Chair of the Non-Aligned Movement after it met the procedural requirements under Article 35(2) of the Charter.

My country achieved the recognition of its independence as a sovereign State on November 28, 1843 by joint proclamation from Great Britain and France and by 1893, the Hawaiian Kingdom maintained over ninety legations and consulates throughout the world and has been a Member State of the Universal Postal Union since January 1, 1882. Of particular interest to your Excellency, my country's former ambassador, His Excellency Curtis Iaukea, was received by King Milan in 1883 in Serbia and was conferred a commission and insignia of the Grand Cross of the Royal Order of Takovo, an order instituted in 1862 in commemoration of the first uprising of the Serbians against the Turks at Takovo.

Unable to procure a treaty of cession from the Hawaiian Kingdom acquiring the Hawaiian Islands as required by international law, the United States Congress enacted a *Joint Resolution To provide for annexing the Hawaiian Islands to the United States*, which was signed into law by President McKinley on July 7, 1898 during the Spanish-

American War as a war measure. The Hawaiian Kingdom came under military occupation on August 12, 1898 at the height of the Spanish-American War, and the occupation was justified by the United States as a military necessity in order to reinforce and supply the troops that have been occupying the Spanish colonies of Guam and the Philippines since May 1, 1898. Following the close of the Spanish-American War by the 1898 Treaty of Paris, U.S. troops remained in the Hawaiian Islands and continued its illegal occupation to date in violation of the 1893 *Lili'uokalani assignment and Agreement restoration*, being international compacts established through *exchange of notes*, the 1907 Hague Convention, IV, and the 1949 Geneva Convention, IV.

Usurping Hawaiian sovereignty, United States President McKinley signed into United States law *An Act To provide a government for the Territory of Hawai'i* on April 30, 1900; and on March 18, 1959, United States President Eisenhower signed into United States law *An Act To provide for the admission of the State of Hawai'i into the Union*. The State of Hawai'i government, established by an Act of Congress, is a usurpation of sovereignty during occupation and therefore not only illegal but also is a war crime.

I also had the honor of serving as Agent for the *acting* Government of the Hawaiian Kingdom in arbitral proceedings before the Permanent Court of Arbitration, *Larsen v. Hawaiian Kingdom*, 119 International Law Reports 566 (2001).¹ The Arbitral Tribunal in the *Larsen* arbitration comprised of Professor James Crawford, SC, Presiding Arbitrator, who at the same time was a member of the United Nations International Law Commission and *Special Rapporteur* on State Responsibility (1997-2001); Professor Christopher Greenwood, QC, Associate Arbitrator, who now serves as a Judge on the International Court of Justice since February 6, 2009; and Gavan Griffith, QC, Associate Arbitrator, who served as former Solicitor General for Australia. The jurisdictional basis of the Permanent Court of Arbitration in *Larsen v. Hawaiian Kingdom* was a dispute between a State and a private person. I also served as Agent for the *acting* Government when I filed a Complaint against the United States of America with the United Nations Security Council on July 5, 2001, under the Presidency of China.²

The Hawaiian Kingdom will withdraw States from this Protest and Demand, with the exception of the United States of America, when said States shall declare, whether individually or collectively, that they will not recognize as lawful the United States of America's presence and authority within the territory, territorial seas, exclusive economic zone and airspace of the Hawaiian Kingdom according to Article 41(2), *Responsibility of States for International Wrongful Acts* (2001), excepting the United States' temporary and limited authority vested by virtue of the 1893 *Lili'uokalani assignment*, Article 43 of the 1907 Hague Convention, IV, and international law.

¹ Bederman & Hilbert, "Arbitration—UNCITRAL Rules—justiciability and indispensable third parties—legal status of Hawai'i," 95 *American Journal of International Law* 927-933 (2001).

² Patrick Dumbery, "The Hawaiian Kingdom Arbitration Case and the Unsettled Question of the Hawaiian Kingdom's Claim to Continue as an Independent State under International Law," 2(1) *Chinese Journal of International Law* 655-684 (2002); and David Keanu Sai, "A Slippery Path towards Hawaiian Indigeneity: An Analysis and Comparison between Hawaiian State Sovereignty and Hawaiian Indigeneity and its Use and Practice in Hawai'i today," 10 *Journal of Law and Social Challenges* 68-133 (Fall 2008).

Under the heading of “usurpation of sovereignty during occupation,” war crimes are currently being committed by individuals who are being reported to the Human Rights Council Branch-Complaint Procedure Unit. This letter is intended to bring to the attention of your Excellency the gravity of the Hawaiian situation and the ongoing violations of human rights taking place in the Hawaiian Islands. Attached to this letter is the Protest and Demand, and the Annexes can be accessed online at http://hawaiiankingdom.org/UN_Protest_Annexes.shtml.

Your Excellency can also view an interview I did on South-South News on October 19, 2012 at its studio in New York City, which can be accessed online at <http://www.southsouthnews.com/Pages/SSN.aspx?nc=1&t=s&s=1&h=false&lo=false&v=2012/10/20121020134818714&vid=81f8cef1-f602-4502-bc6c-fb2d89b2497a&cid=5&r=4767>.

Please accept, Excellency, the assurances of my highest consideration,

A handwritten signature in black ink, appearing to read "David Keanu Sai". The signature is fluid and cursive, with a period at the end.

David Keanu Sai

Enclosure