

## STRATEGIC IMPLICATIONS OF THE NATIVE HAWAIIAN SOVEREIGNTY MOVEMENT

BY

COLONEL BRUCE D. JENKINS  
United States Army

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U.S. Army War College, Carlisle Barracks, PA 17013-5050

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USAWC STRATEGY RESEARCH PROJECT

**STRATEGIC IMPLICATIONS OF THE NATIVE HAWAIIAN SOVEREIGNTY  
MOVEMENT**

by

Colonel Bruce D. Jenkins  
United States Army

Colonel Bobby Mundell  
Project Adviser

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U.S. Army War College  
CARLISLE BARRACKS, PENNSYLVANIA 17013



## **ABSTRACT**

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There is a vocal undercurrent of supporters that endorse Native Hawaiian Sovereignty as specified in the Native Hawaiian Government Reorganization Act (known as the Akaka Bill). This proposal could create a Native Hawaiian governing entity that would provide everything from special privileges for persons of Native Hawaiian ancestry to potentially an outright full secession of the State of Hawaii as an independent nation. There are significant implications domestically and regionally that weigh heavily on the political support expected for the passing of this bill. Further, there are daunting challenges and opportunities that must be explored in order to levy a focused strategic argument to test the bill's validity, and ensure decision makers understand the associated consequences. This paper will provide a historical background, analyze associated implications, review potential opportunities for exploiting the current movement to precipitate change, and make suggestions for overcoming challenges and roadblocks that threaten political support of the bill.



## STRATEGIC IMPLICATIONS OF THE NATIVE HAWAIIAN SOVEREIGNTY MOVEMENT

...the lawful Government of Hawaii was overthrown without the drawing of a sword or the firing of a shot by a process every step of which, it may be safely asserted, is directly traceable to and dependent for its success upon the agency of the United States acting through its diplomatic and naval representatives. By an act of war, committed with the participation of a 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. The provisional government has not assumed a republican or other constitutional form, but has remained a mere executive council or oligarchy, set up without the assent of the people. It has not sought to find a permanent basis of popular support and has given no evidence of an intention to do so. Indeed, the representatives of that government assert that the people of Hawaii are unfit for popular government and frankly avow that they can be best ruled by arbitrary or despotic power. <sup>1</sup>

—President Grover Cleveland  
December 18, 1893

There is a vocal undercurrent of supporters that endorse Native Hawaiian Sovereignty as specified in the Native Hawaiian Government Reorganization Act (known as the Akaka Bill). This proposal could create a Native Hawaiian governing entity that would provide everything from special privileges for persons of Native Hawaiian ancestry to potentially an outright full secession of the State of Hawaii as an independent nation. There are significant implications domestically and regionally that weigh heavily on the political support expected for the passing of this bill. Further, there are daunting challenges and opportunities that must be explored in order to levy a focused strategic argument to test the bill's validity, and ensure decision makers understand the associated consequences. This paper will provide a historical background, analyze associated implications, review potential opportunities that are

available to exploit the current movement to precipitate change, and make suggestions for overcoming challenges and roadblocks that threaten political support of the bill.

Zogby International conducted a poll in late 2009 (results released in 2010) to determine the support base in Hawaii for the Akaka Bill. Of all registered voters polled, 25% were in support of the Akaka Bill, 60% opposed it and 15% were not sure about their position<sup>2</sup>. Current demographics in Hawaii (all islands) show that that 24% (310,842) of the total population (1,295,178) claim to be “Native Hawaiian” or of Native Hawaiian ancestry. According to the Akaka Bill, a Native Hawaiian is defined as “an individual who is 1 of the indigenous, native people of Hawaii and who is a direct lineal descendent of the aboriginal, indigenous, native people who resided in the islands that now comprise the State of Hawaii on or before January 1, 1893; and occupied and exercised sovereignty in the Hawaiian archipelago, including the area that now constitutes the State of Hawaii; or an individual who is 1 of the indigenous, native people of Hawaii... or a direct lineal descendent of that individual.”<sup>3</sup>

The Native Hawaiian Government Reorganization Act of 2009 (7<sup>th</sup> version) is currently before the 111<sup>th</sup> Congress, and is commonly known as the Akaka Bill. The bill is named after Senator Daniel Akaka of Hawaii, who originally proposed the bill in 2000 before the 106<sup>th</sup> Congress. The original version and the updated versions that followed propose the establishment of an indigenous Native Hawaiian entity that would gain federal recognition similar to a Native American Indian tribe. Proponents argue that the bill redresses ancient wrongs done to Hawaiians by the United States. It authorizes the creation of an exclusively race-based governing entity to exercise sovereignty over “native” Hawaiians living anywhere in the United States. This new government could

exempt its Hawaiian citizens from any aspect of the U.S. Constitutions it deems appropriate. According to the Akaka Bill, the Act provides a process within the construct of Federal law for the Native Hawaiian people to “exercise their inherent rights as a distinct, indigenous, native community to reorganize a single Native Hawaiian governing entity for the purpose of giving expression to their rights as native people to self-determination and self-governance.”<sup>4</sup>

This paper assesses the strategic implementation of two potential options that could evolve with the passing of the current or adjusted versions of the Akaka Bill.

These options include:

1) Fullest Form. Establishment of a Native Hawaiian Government that represents Native Hawaiian interests alone and successfully separates from the control of U.S. State and Federal Governments as a sovereign nation.

2) Partial Form. Demands for reconciliation are granted and a government within a government is formed. This option provides for additional rights for Native Hawaiians, allows for partial sovereignty with restrictions, and gives Native Hawaiian’s increased benefits and the right of self determination under the law.

The recognition proposed by the Akaka bill is similar to federal recognition currently enjoyed by federally recognized Native American Indian Tribes in the continental 48 states and Alaska. However, the Bureau of Indian Affairs requires the satisfaction of 7 criteria before recognizing a tribe, which include: the petitioner being identified as an American Indian entity on a continuous basis since 1900; a predominant portion of the group comprises a distinct community; the petitioner has maintained political influence or authority over its members from historical times to the present; a

copy of the groups governing documents; the petitioner's membership documentation showing the descent from a historical Indian tribe, members of the group are not members of any other North American Indian tribe; and petitioners or group members are not the subject of Congressional legislation that has terminated or forbidden Federal relationships.<sup>5</sup> None of the 7 required criteria for Federal recognition are present in the Akaka Bill.

As currently written, the Akaka Bill provides for negotiations between the United States and the proposed new Hawaiian government. Negotiations over land, resources and rights are the triad by which the new government will pursue its interests. Accordingly, the bill will establish the "United States Office for Native Hawaiian Relations", the "Native Hawaiian Interagency Coordinating Group", establish a commission of 9 members to certify which adults meet the definition of "Native Hawaiian", establish a "Native Hawaiian Interim Governing Council" that would establish a permanent form of government, perform future negotiations with the United States over disputed government authority, oversee civil and criminal jurisdictions and grievances, and negotiate gaming activities for the newly established Hawaiian government.<sup>6</sup>

### Background

On November 23d, 1993 the United States Government issued an Apology Resolution, signed by President Bill Clinton, to the Native Hawaiian population of the 50<sup>th</sup> State to acknowledge the (controversial) overthrow of the Kingdom of Hawaii. This resolution marked the 100<sup>th</sup> anniversary of the overthrow. The Apology Resolution acknowledges that the overthrow happened without the Hawaiian people relinquishing to the United States their claims to sovereignty over their lands. Accordingly, the

resolution summarized the historical significance of the apology by documenting the chronological events that led to the annexation. Highlighted events include: the period from 1826 to 1893 when the U.S. recognized the independent Kingdom of Hawaii; treaties established between the Kingdom and the U.S. in 1826, 1842, 1849, 1875 and 1887; the January 14, 1893 U.S. Minister (John L. Stevens) conspiracy plan; the January 16<sup>th</sup>, 1893 armed naval invasion of the Kingdom and removal of Queen Liliuokalani; the January 17<sup>th</sup>, 1893 Committee of Safety provisional government (represented the American and European Sugar growers); Queen Liliuokalani's issued statements yielding her authority to the United States to prevent armed hostilities; the 17 July, 1893 special commission headed by James Blount to investigate the overthrow; Presidents Cleveland's call for a restoration of the monarchy and decision not to pursue the annexation of Hawaii; the 31 May, 1894 Senate resolution to restore the Hawaiian Monarchy; the perceived stall in restoration from 1894 until 1896 when President McKinley was elected; the July 7, 1898 Joint Resolution 55 that provided for the annexation of Hawaii as a consequence of the Spanish-American War; the approval of the April 30, 1900 Organic Act that provided a government for the territory of Hawaii by the United States and the August 21<sup>st</sup>, 1959 decision to make Hawaii the 50<sup>th</sup> State of the United States.<sup>7</sup>

The Apology Resolution attempts to recognize the overthrow of the Kingdom of Hawaii by agents and citizens of the United States, and cast doubt as to the validity of the United States claim on Hawaiian lands. It also acknowledges that Native Hawaiian people never directly relinquished to the United States their claims of sovereignty as a people over their national lands, either through the Kingdom of Hawaii or through a

referendum (U.S. Public Law 103-150 (107 Stat. 1510)). This resolution has become the primary catalyst for the Hawaiian sovereignty movement.

The legal impact of the Apology Resolution was addressed in the decision of the U.S. Supreme Court of March 31, 2009, which held that the 37 "whereas" clauses of the Apology Resolution have no binding legal effect, nor does it convey any rights or make any legal findings for native Hawaiian claims. The Court concluded that the Resolution does not change or modify the "absolute" title to the public lands of the State of Hawai'i. The decision also affirmed that federal legislation cannot retroactively change title to the lands afforded during statehood. The resolution was passed with only one hour of debate on the Senate floor with only five senators participating, three opposed (Slade Gorton, Hank Brown, John C. Danforth) and two in favor (Akaka and Inouye). It passed the house on November 15 in less time with no debate and no objections.<sup>8</sup>

The Akaka Bill is currently before the 111<sup>th</sup> Congress in order to gain support, traction and approval. If approved, the bill would reshape the state of Hawaii as we know it by creating a government within a government that is capable of negotiating with the Federal Government to regain lost land, establish sovereign separation from the State and Country, as well as govern independently without oversight from State/Federal authority. If approved the bill would result in a number of strategic implications that would negatively affect the nation at large, as they apply to five specific areas of emphasis;

- 1) State secession and an independent sovereign government in Hawaii
- 2) Public health oversight, enforcement of health regulations and Emergency Medical Services

- 3) Land reconciliation and strategic military basing
- 4) Federal funding and the tourism industry
- 5) Potential collapse of a free and prosperous business market and federal tax implications

### State Secession and an Independent Sovereign Government in Hawaii

The Akaka bill includes provisions for secession and the establishment of a governing entity solely based on race. The Placement of a Trojan horse into the Akaka bill could serve as a forcing function for the secession of the 50<sup>th</sup> state from the United States and the ultimate establishment of a separate governing entity. This potentially dangerous precedent (could) pave the way for states such as Alaska, Texas and other southwest states (525,000 square miles established under the 1848 Treaty of Guadalupe Hidalgo) to attempt the same scheme. The Guadalupe Hidalgo treaty has been important in shaping the international and domestic histories of both Mexico and the United States, and has a defining impact on the gains and losses of territorial land between the two countries. Throughout the U.S.-Mexican War, U.S. leaders maintained an attitude of moral superiority as they negotiated the treaty. They considered the forced acquisition of roughly half of Mexico's territory as an event "foreordained by providence, fulfilling Manifest Destiny to spread the benefits of U.S. democracy to the lesser peoples of the continent". As a result of the United State's military victory, U.S. representatives dictated the terms of settlement. The treaty established political and military disparity between the two nations, and this irregular relationship has strained Mexican-U.S. relations over the years.<sup>9</sup>

This same Trojan horse would have been useful during the prelude of the Civil War. Jefferson Davis and Robert E. Lee would love to cast their votes from the grave to

allow the southern states to separate from the Union. Creating a new government entity that would break-away from the Federal Government, all without firing a single shot or losing a single man is a proposition both men would have voted for. The thought of establishing an outright race-based organization would probably find their approval as well.

Under the authority of the Akaka bill, the new Hawaiian government would represent approximately 240,000 Hawaiian residents (out of the current 1,295,178 resident population), much like the government being established in Iraq, which will write a new constitution, negotiate with the International Community and represent manifest destiny in reverse. This new government would alienate itself from the world stage as it further undermines United States legitimacy, and seeks to gain advantage and privilege for a select group. Another example of race based inequality is the Apartheid Government and associated policies in South Africa. This government openly established policies that significantly benefited white people over blacks. Businesses owned by whites were given preferential treatment which created an unfair playing field for businesses to compete on equal footing. Whites were also given preferential treatment for positions within the government, normally held positions of greater authority and were given better pay and benefits. Additionally, approval of the bill would result in the new Native Hawaiian government negotiating sovereignty and reparations with the United States federal government. Section 8 of the Akaka Bill specifies that negotiations will include "grievances regarding assertions of historical wrongs committed against Native Hawaiians by the United States or by the state of Hawai'i".<sup>10</sup> Opening up this endless can of worms could subject the federal government

and U.S. taxpayers to pay millions of dollars for seeded lands, tribal compensations and Native Hawaiian entitlements.

Under the Akaka bill, a sovereign government in Hawaii would not be accountable to the federal government, and could serve as a shield for corrupt trustees that could evade prosecution. The inability of the federal government to enforce standards of conduct creates a situation ripe for abuse, scandal, corruption and uncertainty. The Bureau of Hawaiian Affairs has struggled in the past with the management of their accounting systems and ability to maintain transparent operations. According to Hawaii's Governor Linda Lingle, the problem with the Akaka Bill is the lack of regulation over the governmental (non-commercial) activities of the native Hawaiian governing entity, its employees, and its officers from state, county and federal regulation. This lack of regulation would extend itself to the laws and rules that protect the health and safety of Hawaii's people as well as the environment.<sup>11</sup> According to the Admission Act of 1959, the State of Hawaii will always have the right to serve civil or criminal process within the tracts or parcels of land in the state.<sup>12</sup> The passing of the Akaka bill would strip the state of its ability to over watch the practices of the governing entity and would violate the Admissions Act.

Advocating the Akaka bill doesn't account for or recognize the 60% of Hawaiian Citizens who don't support the bill, and another 15% who don't know enough about the bill to form a position. Passing the bill would legitimize the 25% who do support the bill and their exceedingly narrow agenda's that endorse a race-based system established to benefit a small minority of the population. According to the U.S. Census Bureau, the current population of the Hawaiian Islands is made of 38.5% Asian, 30.2% Caucasian,

18% mix of 2 or more races, 9.3% Hispanic, 9.2% Native Hawaiian/Pacific Islander, 3.5% Military (all races), 3.2% African American, 1.3% Other and .6% American Indian.<sup>13</sup> This melting pot of races and nationalities remains the 10<sup>th</sup> fastest growing state in the nation for population growth. As such, the percentage of native Hawaiian's is proportionally reduced every year as new arrivals to the islands continue and individuals with native Hawaiian blood relocate to the mainland and abroad.

At the time of the 1953 vote, 20% of the population was from native Hawaiian ancestry, a large decrease from the 40% that occupied the islands during the 1893 overthrow, and the 26% that lived in Hawaii during the 1900 Annexation.<sup>14</sup> Approving the Akaka Bill in order to cater to a small minority population of 9.2% who live in the islands and an un-determined number who live in the continental United States is impractical and absurd. It further discounts the 94.3% vote for statehood back in 1953 who overwhelmingly endorsed the admittance into the United States as the 50<sup>th</sup> state.

The bill creates a race-based government in order to protect the interests of native Hawaiians. According to the 15<sup>th</sup> amendment, "the right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of race, color, or previous condition of servitude."<sup>15</sup> The need to maintain color-blind treatment towards our citizens is anchored in the prohibition towards racial restrictions on voting. Anything less than fair and impartial treatment towards all citizens violates the very foundation of which our Constitution rests. A government that discriminates based on race and national origin is exactly what the late Dr. Martin Luther King Jr. famously fought against. He dreamed of a society where his children would be judged by the content of their character and not the color of their skin. This

ideology has become the essence of the American dream and conspicuously woven into our fabric of freedom. The inevitable outcome of this new race based government would be fragmented communities providing special treatment for less than 10% of the current population in Hawaii at the expense of the 90% majority is in no way justified. Any law that would suggest, endorse or enforce this type of open discrimination would have little chance of maintaining any longevity or integrity within a democracy. Race-based governments “convulse communities and besmirch the nation’s signature creed: E Pluribus Unum.”<sup>16</sup>

Further, subdividing Americans based on race raises serious constitutional questions as to whether or not Congress has the authority to treat Native Hawaiians as an Indian tribe.

With this newly anointed status by the Federal Government, over 400,000 Native Hawaiians, spread across the country, would be furnished with special privileges comparable to those currently enjoyed by Indian tribes. Queen Liliuokalani herself confided to then Senator George Hoar, Massachusetts, shortly after the unpopular overthrow that “the best thing for the Native Hawaiians that could have happened was to belong to the United States.” This statement was intended to highlight the importance of coexisting under one strong government in a society free of race-based discrimination, biases and preferential treatment for specific classes of people.

#### Public Health Oversight, Enforcement of Health Regulations and Emergency Medical Services

Approval of the Akaka bill creates a void in public policy and standards associated with the enforcement of public health regulations. This could result in a potentially devastating public health debacle for the entire pacific region. Hawaii is a

hotbed for visitors (7.5 million per year) from around the globe. The Hawaii State Department of Health is chartered with the administration, management and control of chronic disease, emergency medical services, immunizations, public health and dental activities. Many of Hawaii's 7.5 million visitors arrive from foreign destinations that may not have acceptable standards for screening passengers prior to their arrival into U.S. territory it is incumbent upon the Department of Health to monitor and manage the potential introduction of infectious disease at our air and seaports to ensure public safety. No federal or state oversight of this process would result in disastrous strategic implications.

Emergency Medical Services (EMS) is comprised of ambulance based paramedic services and fire/rescue services. EMS in Hawaii is currently funded by a combination of local tax dollars, federal government reimbursement and customer payments (normally from insurance companies). If the tax base of the new sovereign nation is greatly reduced (combination of loss in federal funding and reduced citizen pay-in), the local EMS system would fail. The best alternative in this situation would be a privatized system where the new sovereign local government would contract with a private provider for EMS services. A system of this nature would have significant drawbacks, especially in situations where individuals requiring service (fire or paramedic) had no insurance or ability to pay for the services rendered.<sup>17</sup>

Another area of concern associated with the health and well being of Hawaiian citizens under the Akaka construct is the state's immunization program. Currently, the Hawaii Department of Health is responsible for monitoring and managing the immunization program. Accordingly, the general population is broken down into 3 sub-

groups that require a set package of immunizations in order to remain healthy and fight off infectious disease. These three groups are: Pediatric/Birth, School Aged Adolescent (7-18) and Adult (ages 18 and older). The standard immunization package required prior to school attendance includes: Diphtheria/Tetanus/Acellular Pertussis (DTP), Polio, Measles/Mumps/Rubella (MMR), Haemophilus Influenza Type B (HIB), Hepatitis B and Varicella (Chickenpox).<sup>18</sup> In 2009, Hawaii received over 7.4 million in stimulus funding from the Federal Government under the American Recovery and Reinvestment Act of 2009 (ARRA) for the purpose of underwriting the cost of immunizations. The state government also generated another 1.5 million in tax revenues to apply towards immunization procurement and distribution. In both instances, the State Department of Health received large procurements of tax payer revenue to finance the immunization program.<sup>19</sup> A loss of these tax dollars would completely shut down the immunization program in the state of Hawaii. The new indigenous government would clearly fail in the effective monitoring, funding, managing and tracking of an immunization program without the support of the state and federal government.

#### Land Reconciliation, Strategic Military Basing, National Interests, and Regional Influence

The bill Proposes the return of up to 363,331 acres held as National Parks and another 1,258,000 acres of public state held land (much used for public parks) of former crown lands, known as ceded lands, from the state and federal governments to the new governing entity. The Hawaii statehood admission act of 1959 returned ownership of the ceded lands to the new State of Hawaii, except for national parks and military bases.<sup>20</sup> In doing so, this provided additional income for the State through the management of lease/use proceeds, as well as the sale of land to individuals, corporations and private

entities. The federal government would continue to have sole and exclusive jurisdiction over military installations as delineated by the President of the United States and/or the Secretary of Defense.<sup>21</sup> If the former ceded lands were returned to the new Hawaiian Sovereign Nation, the land currently held by the state for the use of all citizens (most in the form of State and National parks) would no longer be available for public use and would be converted to reservation-like property for exclusive use by the minority population of Native Hawaiians. This move would also decimate tourism as most of the pristine beach and recreation areas would fall into this category. Tourists would be unwilling to spend their vacation dollars in a location so divided among racial lines.

Approval of the Akaka bill increases the probability that the U.S. government would lose over 203,214 acres of strategic basing land and support activities for defense and power projection which is vital to the military for training and basing. This is in direct violation of the 1959 Admissions Act which asserted that the federal government would continue to have sole and exclusive jurisdiction over military installations as delineated by the President of the United States and/or the Secretary of Defense.<sup>22</sup> Hawaii maintains 2% of all installations in the United States. Although a very small percentage of the total installations owned by the Federal Government, Hawaii's installations are strategically advantageous military positions in the Pacific. Hawaii is the nation's gateway to the Pacific, which gives the United States access to Asia and the South Pacific. It is also a prime location from which to defend U.S. interests in the region. Hawaii has become the crucial center for U.S. military intelligence, surveillance, weapons testing, training, and forward power projection support in the Pacific. There are a total of 83 Department of Defense (DoD) owned

properties that act as a combination of Strategic Platforms, Command Headquarters, Strategic Capability Facilities, Support Activities, Training Areas and Recreation Facilities spread across the state's six main land masses. Most significant among these DoD installations are six facilities that enable power projection, including Pearl Harbor, Hickam Air Force Base, Schofield Barracks, and Wheeler Army Airfield, and six (6) Command installations; Fort Shafter, Camp H.M. Smith, Pearl Harbor, Hickam Air Force Base, Kaneohe Marine Corps Base and Schofield Barracks. Furthermore, there are over 18,000 buildings that are either owned or leased to the military. Over 98% of all buildings used for DoD purposes are owned by the Federal Government. The Akaka Bill allows for negotiations with the Federal Government to have some, if not all of these lands returned. If Hawaii was allowed to separate from the United States under the Akaka Bill, the stability and balance of power within the Pacific Region would be at stake. The United States would lose a critical logistics and power projection platform in the Pacific. Alternative staging bases in Guam, Japan, or Korea would become overburdened as the United States shifted equipment, personnel and logistic platforms to alternate locations.

The nation will lose its influence in the Pacific if land/facilities for military basing in Hawaii are lost as a result of negotiations with the new Hawaiian government. This will result in an outward appearance that the United States is retreating from its interests, obligations and influence in the region. The United States Pacific Command (USPACOM) is chartered with the oversight of the Pacific Region. Its strategy to maintain influence in the region include: strengthen and advance alliances and partnerships; mature the U.S.- China military relationship; developing a U.S.- India

strategic partnership; remaining able to quickly respond to crises on the Korean Peninsula and to counter transnational threats.<sup>23</sup> Its area of Responsibility (AOR) encompasses almost half the earth's surface, stretching from the waters off the west coast of the United States to the western border of India, and from Antarctica to the North Pole.

The Asia-Pacific region is the most geo-politically, socially, culturally, and economically diverse region on the globe. The 36 nations that make up the Asia-Pacific region are home to more than 50% of the world's population, three thousand different languages, several of the world's largest militaries, and five nations allied with the U.S. through mutual defense treaties. Two of the three largest economies are located in the region, along with the most populous nation in the world, the largest democracy, and the largest Muslim-majority nation.

USPACOM protects and defends, in concert with other U.S. Government agencies, the territory of the United States, its people, and its interests in the Pacific. With allies and partners, USPACOM is committed to enhancing stability in the Asia-Pacific region by promoting security cooperation, encouraging peaceful development, responding to contingencies, deterring aggression, and, when necessary, fighting to win. This approach is based on partnership, presence, and military readiness.<sup>24</sup> The removal of USPACOM from its Hawaii based center of influence would create a mammoth void in the stability, protection obligations, security and diplomacy in the region. There is no other U.S. territory positioned in the middle of the Pacific with the same level of support systems, ability to rapidly project U.S. forces forward and established infrastructure that Hawaii currently enjoys.

The loss of these vital military installations would result in a sizeable decrease in capability and support of U.S. allies in the region for contingency and deterrence reasons, as the transit distance to potential hotspots would increase by 2200 miles. Hawaii is the only land mass in the middle of the Pacific Ocean that is capable of supporting such a robust military presence. There are other options available to the U.S. Government such as Guam, Japan or the Philippines. The obvious drawback is the approval by these nations/territories to allow a large U.S. capability to stage on their doorsteps. Further, the cost of relocating DoD facilities would be cost prohibitive in the currently staggering economy. Additionally, the vacuum created by the departure of the U.S. Military from Hawaii would create an opportunity for other Nation States to position their assets in Hawaii.

China or Russia would love to establish another Cuba off the west coast of the Continental United States for strategic reasons. PACOM units are strategically positioned to be able to react quickly to crises on the Korean Peninsula, across Asia and throughout the region. Our current ability to support the stability in the Pacific, the protection of Japan and Taiwan, and the ultimate protection of the U.S. mainland from Pacific based threats would become compromised if military basing in Hawaii was terminated.

Another significant regional concern associated with the loss of U.S. military presence in Hawaii, is the degradation of the nation's ability to respond to a Humanitarian Crises in the region. Over the last twenty years, there have been an increasing number of humanitarian disasters in the Pacific Region. United States Pacific Command was at the forefront of coordinating relief efforts with governmental

and non-governmental agencies in the region. The Burma Cyclone in 2008 claimed 22,500 lives. Typhoon Thelma in the Philippines in the 90's killed over 6,000. The Bangladesh Cyclone in 1991 killed over 138,000 people. Using Hawaii as a staging base for Naval and Air Forces greatly reduces the response time to troubled hot spots in the region. The loss of this capability would cause considerable concern for our allies and partners spread throughout the Pacific.

Support and protection agreements would blur as Nations compete for Pacific hegemony. This would also set a dangerous precedent to entice other nations to do the same creating potential instability around the globe as groups move towards ethnic cohesion and away from diversity. Potentially other large Nation States like China or Russia would quickly seize the initiative to develop support/protection agreements with the new Hawaiian government. If successful, they would likely attempt to either base their troops forward in some of the facilities the United States vacated, or would position key assets and potential weapons in Hawaii as a strategic hedge against U.S. aggression.

The perceived isolationist action by the United States in the international community would hurt foreign trade, foreign investments, and put into question current protection agreements with nations like Japan and Taiwan. Hawaiian activities of international importance including research and development in oceanography, geophysics, astronomy, satellite communications, and biomedicine would become insular without the continued support of the state and federal government. The new Hawaiian government could still conduct these activities at some level, but the resource base would be insufficient without the support of the federal government.

An independent and sovereign Hawaii would encourage other U.S. Commonwealths with geographically strategic locations such as Puerto Rico, Virgin Islands, Guam, American Samoa, Midway, Wake Island and Johnston Atoll to pursue the same venue. A precedent of this magnitude could cause a domino effect and collectively hurt the United States ability to maintain forward military presence in these areas. Enhanced military capabilities of the 21<sup>st</sup> century have narrowed the support requirements gap established in the 1940s at these locations. However, these geographically disbursed military platforms provide for future military capabilities in the region that should remain a part of the United States array of platform options.

The establishment of another government entity (government within a government) that could have negotiating rights with other nations is a major concern. Unless otherwise specified, the new governing entity could enter into negotiations with other nation states without the consent of the United States. This potentially explosive situation could have a far-reaching impact on the stability of the region and security of the United States if not contained.

The loss of the above-mentioned military installations and facilities also has significant economic implications for the nation. U.S. military and civilian personnel assigned to the United States Pacific Command (USPACOM) number approximately 325,000 or about one-fifth of total U.S. military strength. This large population of Hawaii citizens dominates much of the Hawaii economy by virtue of goods consumed, taxes paid, and property purchased. This very large population base includes the U.S. Pacific Fleet of five aircraft carrier strike groups, approximately 182 ships, 1,600 aircraft and 100,000 personnel. Marine Corps Forces Pacific possesses about two-thirds of U.S.

Marine Corps combat strength, includes two Marine Expeditionary Forces and about 85,000 personnel assigned. U.S. Pacific Air Forces is comprised of approximately 40,000 airmen and more than 300 aircraft, with about 100 additional aircraft deployed to Guam. U.S. Army Pacific has more than 60,000 personnel assigned. Department of Defense Civilians and Contractors in the Pacific Command AOR number about 40,000. Additionally, the U.S. Coast Guard, which frequently supports U.S. military forces in the region, has approximately 27,000 personnel in its Pacific Area.<sup>25</sup> If the land that military bases currently reside were to be returned to the new Native Hawaiian Government, the local economy would collapse as many of the 325,000 people relocated back to the Continental United States or abroad. Contributions to Hawaii's Gross National Product (GDP) from military and military dependent expenditures continuously rank in the top two among all sectors. Over the last five years, the average amount contributed to the local economy has ranged from 13 to 18 billion. The loss of this golden egg would send the economy in an irreversible tail spin.

#### Federal Funding and the Tourism Industry

Approval of the Akaka bill will result in the potential loss of federal funding that will drastically impact schools, law enforcement, infrastructure, quality of life and social programs. The total formula funding for Hawaii in the Economic Stimulus package is \$718 million. This includes funding for roads, public housing, wastewater systems, education and social services. In addition, Hawaii will also receive \$520 million to enable the funding of significant projects to include, military construction projects, increased healthcare services at community healthcare centers, harbor dredging, federal building upgrades, National Park Service and Fish and Wildlife Service property

upgrades, and airport security investments. Hawaii also received 130 million from the federal government for Medicaid and Education.<sup>26</sup>

The state's budget for FY10 included disbursements of .86 billion for pensions, 2.61 billion for health care, 4 billion for education, .99 billion for welfare, .64 billion for protection services and .95 billion for transportation.<sup>27</sup> If the new government proposed by the Akaka Bill loses the federal funding stream discussed above, as well as the ability to tax its residents as currently done by the state government, it will have no effective mechanism to raise the required funds to support a modern population in the 21<sup>st</sup> century. There is no amount of tourism or gaming proceeds that could offset this tremendous loss.

One of the huge lures of the Aloha State is the melting pot society seen as the envy of the free world. Currently, Hawaii enjoys strong brand awareness, attractive culture and history, destination allure and appeal, solid natural resource availability, strong Aloha spirit, quality/variety of accommodations, safe yet exotic destination, variety of activities and attractions, and a geographic isolation that is desired by many travelers. Many of these strengths that make Hawaii an attractive place to visit would vanish if the Akaka Bill is passed. Dividing the American people of the island into sub-groups that compete against each other for benefits and status will cripple the tourism industry at all levels.

Currently, Hawaii enjoys a robust influx of tourists, normally amounting to approximately 600,000 per month. This number has seasonal spikes, however remains fairly steady throughout the year with Hawaii's consistent temperature ranges. Since statehood in 1959, the visitor industry has grown to become the economic mainstay of

Hawaii. Tourism in Hawaii will generate approximately 13 billion in spending for travel and hotel/goods and services, which will generate, directly and indirectly to approximately 22.3% of the total jobs in the State.<sup>28</sup> The visitor industry compiles approximately 26.5% of total tax revenues and amounts to 17.3% of the Gross State Product. The average numbers of visitors to the islands since 9-11 have remained steady at approximately 7,000,000 per year.<sup>29</sup>

The West Coast of the United States sends the most visitors, followed by the East Coast, Japan and Canada. If the new Hawaiian Nation were to require passports to visit, the foreign feel of the historically domestic destination may cause people from the Continental United States to select destinations with less entry restrictions (California or Florida). Requiring United States citizens in the mainland to obtain a passport to sunbathe in Hawaii will impact the tourism industry in unthinkable terms. The potential instability of the new government, in conjunction with the lack of state sponsored services, unmaintained infrastructure and lack of a fair free market economy, would cripple the incentives for most tourists and significantly impact Hawaii's lure as a world-class tourism destination. Additionally, the lack of an efficient State government would lead to geographic isolation, inadequate public and private infrastructure, insufficient visitor/resident interaction, lack of accurate pre/post arrival information, volatility of the inter-island transportation services, and reduced maintenance of public facilities and the loss of professional (certified) guides. Inadequate funding brought on by the loss of State/Federal infusion would also create an anti-tourism sentiment and foster a loss of identity for America's 50<sup>th</sup> state.

## The Potential Collapse of a Free and Prosperous Business Market and Federal Tax Implications

Approval of the Akaka bill may result in the potential collapse of a free and prosperous business market as a result of unfair tax breaks and rules for businesses subsidized or not subsidized by the new government. In its current form, the bill potentially pre-empts civil regulatory and tax jurisdiction without consent from the state, and special tax breaks and regulatory structures could be given to Native Hawaiian owned businesses. This would result in non-Native business owners in Hawaii who have been operating under equal rules and regulations, not being able to compete with Native-owned businesses. Incentives for non-Native businesses would diminish, weakening competition, which would eventually limit consumer options and drive up prices. Of the 36,938 businesses in Hawaii, approximately 3,600 were owned by Native Hawaiians. There were 727 Native Hawaiian owned firms with receipts of \$1 million or more. These firms accounted for 2.5 percent of the total number of Native Hawaiian firms and 66.8 percent of their total receipts. There were 28 Native Hawaiian owned firms with 100 employees or more, generating more than \$698 million in gross receipts (19.9 percent of the total revenue for Native Hawaiian owned employer firms).<sup>30</sup> The small number of native-owned businesses (10%) may not seem significant; however their new found competitive advantage could quickly upset the delicate economy already on shaky ground.

The collateral effect of this dynamic on the island could create a huge monetary loss to the Federal Government of approximately \$690 million annually in lost taxes, land lease revenues and costs of establishing new government. The current national debt is \$13,673,819,329,461.88. This equates to \$44,199.44 per U.S. citizen. The

national debt continues to grow an additional 4.15 billion dollars per day. The additional debt burden placed on all U.S. taxpayers as a result of the Akaka Bill is unacceptable.<sup>31</sup>

This potential circumstance also exasperates a bleak tax situation for an already overburdened population. Hawaii already has one of the highest tax scales in America. Residents pay on average \$4,500 a year in taxes which is consistently the highest in the nation. The requirement to ship in most all consumer goods significantly raises the cost of products and services. Current residents in Hawaii struggle to survive in a bad economy where jobs are scarce, pay is low, products are expensive and taxes are high. Approval of the Akaka Bill will levy an unfunded mandate on residents (honorary residents) to subsidize the new government's operations and make up for the looming shortfall of funds lost from federal streams and ear-marks. This would make an already poor economic situation even worse.

#### Other Implications and Opportunities

While the above-mentioned negative strategic implications associated with the potential approval of the Akaka bill warrant serious consideration, there are a number of legitimate areas of concern that could be fostered by a modified approved Akaka bill. In its current form, the bill provides for increased protection for native Hawaiians by the Office of Hawaiian Affairs and their oversight of the Kamehameha school program. The current charter of the Office of Hawaiian Affairs (OHA) is the protection of Hawaii's people and environmental resources by ensuring the perpetuation of the culture, the improvement of lifestyles and the protection of entitlements of Native Hawaiian people. The OHA also monitors the Kamehameha School program to insure standards are being met in admissions and the curriculum. These efforts will result in an empowered and enabled Native Hawaiian community, recognized nationally and internationally, that is

capable of maintaining a vibrant and healthy nation, The OHA (currently) provides assistance in education, childcare, community outreach, transitional housing, cultural awareness, training and representation, and provides financial assistance for Native Hawaiian children grades kindergarten through 12<sup>th</sup> grade. In 2009, they paid \$500,000 for over 172 families, and maintains fourteen scholarships for higher education. Overall the OHA paid out more than \$5 million in scholarships for 2009. An additional 16 million was committed in support of housing assistance, childcare, transitional support, cultural awareness and enhancement activities.<sup>32</sup> The ability of the new Hawaiian governing entity to negotiate for additional funds from federal and state governments to advance these programs will improve with the passing of the Akaka Bill.

The improved Hawaiian Homelands housing for Native Hawaiians initiative is another area that will benefit by approving the Akaka bill. Approximately 6,800 Native Hawaiian families currently reside on Hawaiian Homelands set aside for support of this population. The Hawaiian Homes Commission Act of 1929 set aside approximately 203,500 acres of land for Native Hawaiian homesteads and farms. There are another 18,000 families that currently reside on a waiting list to obtain housing. The drastic shortage of available housing is highlighted by a large number of Native Hawaiians that are homeless, which comprise approximately 28% of the states homeless population. In 2010, the Housing and Urban Development (HUD) office awarded \$2.4 million to stimulate housing renovations and new construction to ease the problem.<sup>33</sup> Future Negotiations by the new Hawaiian government would seek to obtain more money, land and support from the state and federal government to close the gap on the severe shortage of housing.

Newly promoted reconciliation between the United States and the former Kingdom of Hawaii is another area that will positively benefit by passing the bill. President Grover Cleveland's message to Congress on December 18, 1893 concerning the Hawaiian Kingdom investigation resulted in his formal decision to restore the status of the Hawaiian Kingdom as it was prior to the January 16 occupation. President Cleveland stated ...

I suppose that right and justice should determine the path to be followed in treating this subject. If national honesty is to be disregarded and a desire for territorial extension, or dissatisfaction with a form of government not our own, ought to regulate our conduct, I have entirely misapprehended the mission and charter of our Government and the behavior which the conscience of our people demands of their public servants.<sup>34</sup>

President Cleveland's mandate to restore the Hawaiian Kingdom was delayed by bureaucratic scrutiny and a change in administrations. President McKinley's preoccupation with the Spanish American War made the annexation for the purposes of National security a top priority. President Clinton's attempt at reconciliation was manifested in the Apology Resolution he enacted on November 23, 1993. President Obama, born in Hawaii on August 4, 1961 has pledged his support to Native Hawaiian activists to address their concerns and further correct previous wrongs committed against the Hawaiian Kingdom. Support at some level for the concerns addressed in the Akaka Bill by the Federal Government would display an attempt to build reconciliation and support of enhanced rights and opportunities for Native Hawaiians.

Improved efforts that promote respect for the Hawaiian culture is another area that can benefit from the bill. Hawaiian culture is a cherished element of the Hawaiian experience that continues to make the islands a top tourist destination. Hawaiian culture is rooted in the "aina", a term that refers to the land and seas that make up

Hawaii, meaning “love of the land.” In order to maintain Hawaii’s beauty for future generations, it is essential that the land, sea, plants and animals remain protected. The Akaka Bill would strengthen regulations and laws to protect these cherished resources. Preserving the “spirit of Aloha”, the timeless “hula”, preservation of the native language, and the protection of Native Hawaiian burial and worship sites are all key ingredients to the Bill’s intent of preserving and strengthening the native culture.

The Akaka bill allows for Native Hawaiian self determination. Unlike Native Indians or Native Alaskans’, Native Hawaiians do not have self-governance rights. There has been a growing sovereignty movement by Native Hawaiians to spell out their needs, to acknowledge their status as native people, to resurrect their language, and to protect their resources. The state government’s Office of Hawaiian Affairs works to improve the conditions of Native Hawaiian’s by providing certain entitlements based on their ancestry, distinct community, culture, history, and lands. They are allowed to establish homesteads on certain land that has been set aside in trust for them. However, there has been ongoing resistance to fully returning land held in trusts. The Akaka Bill would allow the new governing entity to negotiate for additional assets.

Approval of the bill can also provide status on the world stage for Native Hawaiians and recognition of their roots. Hawai’i and the Native Hawaiian community can choose to demonstrate leadership to world leaders and people around the globe on many fronts. Potential areas to address include managing threats from global warming; safeguarding native people in the global competitive market; developing regulations and policies which carve out native rights in telecommunications and minimize destruction of cultural sites and island lifestyles; developing guidelines for bio-agricultural and

aquamarine industries, ensuring sustainable island marine life and fishing zones for future generations; and building partnerships for alternative energy sources, green energy policies and related technologies in the context of island economies for Pacific Island peoples. Establishing a separate Native Hawaiian governing entity would also foster the ability of Native Hawaiians to gain access to other nations in a more formal role. Negotiations and other agreements could strengthen their position in the global market.

The bill can also promote reconciliation with the Native Hawaiian community and advance their legitimacy in the eyes of the United Nations. Since the overthrow in 1893, a vocal minority of native Hawaiians have sought some level of sovereignty.

International solutions could be explored as a part of the reconciliation process. The 1993 Apology Resolution issued by President Clinton was a good first step. In order to make the reconciliation process legitimately meaningful, the federal government could engage in a dialogue with Hawaiian leaders in an attempt to capture the remaining issues for further resolution. The principles of self-determination and self-governance, which are consistent with the democratic ideals upon which our nation is founded, can only be meaningful if Native Hawaiians have the freedom to examine diverse options for exercising the sovereignty that they have never directly relinquished. Accordingly, the United States should give due consideration to re-inscribing Hawai'i on the United Nations' list of non-self-governing territories, among other possibilities.

Our nation's experiment in democracy will gain credence (and, therefore, influence) with members of the international community to the extent that we are able to fully embrace the ideal that motivated this country's founding fathers: consent of the

governed. International observers could help fashion a unique solution that suits the political needs of Hawaiians. Those supervising the reconciliation process should provide for an open, free, and democratic plebiscite on all potential options by which Native Hawaiians might express their inherent right to self-determination. The process should allow for international oversight by nonaligned observers of international repute.<sup>35</sup>

The Native Hawaiian government could develop a support/supported relationship with other nation states. The Hawaiian Nation could gain the ability to establish independent trade and commercial relationship with other sovereigns. This freedom of maneuver could allow greater growth in green energy initiatives, development in agriculture, protection of natural resources and potential increases in foreign investment. This opportunity to establish new economic relationships could prompt the return of the island's once thriving agricultural economy, which could put more native Hawaiians to work. This situation could reduce the current (6%) unemployment rate for native Hawaiian's and reduce the percentage of native Hawaiians on welfare (21%).

The bill also allows the United States to give back some land to the Native Hawaiian government that is no longer of strategic, commercial or collective value. The United States currently has 203,214 acres of land used for military purposes, 363, 331 acres used for National parks, and another 1,258,000 acres of state land mostly reserved for state parks used by all residents. The land designated for military use was based off a plan designed around World War II conditions and requirements. The Army currently owns 42 locations with over 4000 buildings, the Navy owns 18 locations with

over 7000 buildings, the Air Force owns 21 installations with over 1200 buildings and the Marines own 2 installations with over 3000 buildings.

The Army can afford to relinquish some of the land currently held for ammunition storage, training and housing. The Aliamanu Military Reservation (AMR) is a family housing area located near Fort Shafter and Tripler on the island of Oahu. Residents currently living there could relocate to housing available either on Tripler or Fort Shafter and free up approximately 600 sets of quarters for leasing to Native Hawaiians. Additional quarters could be built on those installations to support additional families, in addition to the use of private residence in the local area.

Training areas that see minimal use such as Dillingham, Pupukea, Fort Ruger, Barbers Point, Waiawa Gulch and some area in Kahuku Training Area could also be returned, freeing up approximately 5000 acres for Native Hawaiian use. Additionally, some of the acres on the exterior of the maneuver area in Pohakuloa Training Area on the Big Island could be returned, yielding another 20,000 acres for homestead purposes. The Navy could also return some areas situated at Barbers Point and provide another 800 acres. Some of the acres reserved for National Parks (363,331 acres) as well as some land from the State held park inventory (1,258,000 acres) could be returned as well, providing up to an additional 400,000 acres for Native Hawaiian use.

### Summary

The consummate progress the United States has shown towards eliminating barriers towards equality for all people is unmatched in the history of the free world. The honor of American citizenship is exemplified by the grounding of absolute values that include: a government that flourishes by the consent of the governed; equal justice for all; merit and charter as the yardstick of individual destiny; and the value and

equality found in the rule of law. The Akaka Bill plays lip serve to all four values. As currently written, it endorses the building of a governing body outside the Constitution and established laws of the United States and the state of Hawaii. It also condones Native Hawaiian ancestry as being decisive in destiny, and denies non-Native Hawaiians equal justice under the law. Furthermore, it severely mocks the premise of self-government by denying the citizens of Hawaii the ability to determine their future destiny.

In 1959, the people of Hawaii were afforded the opportunity to choose their own destiny. As a result, the overwhelming majority (94%) elected statehood over a self-governing commonwealth status. Residents of Hawaii saw obvious merit in allowing the United States to control interstate trade, foreign relations, commerce, customs administration, control of air/land/sea travel, immigration, citizenship, currency, maritime laws, military service, military bases, jurisdictions and legal procedures, treaties, communications, agriculture, highways, postal system, and social security. The purpose of the Akaka Bill (creation of an exclusively race-based governing entity to exercise sovereignty over “native” Hawaiians living anywhere in the United States) is noble in construct; however its attempt to right past wrongs in a way that creates open discrimination is off the mark.

Senator Akaka still has the opportunity to rewrite the bill in a way that provides Native Hawaiian people with increased leverage to obtain some of their objectives. The Akaka Bill should ask for enhanced representation in the Office of Hawaiian Affairs to seek additional benefits and protections for Native Hawaiian people under the law. This could manifest in additional health programs, more homestead land set aside for

housing and agriculture, additional opportunities to cultivate Hawaiian culture, protection for ancient religious/burial sites, promulgation of the Hawaiian language and customs, protection of the “aina” (land, water, resources, plants and animals), and additional incentives for Native Hawaiian businesses.

The Bill should further specify that succession from the United States is not possible nor is the recoument of currently owned DoD land without the expressed consent of DoD. Further, the bill should clearly state that Native Hawaiian’s are ineligible to seek reparations from the Federal Government as a result of the overthrow or annexation.

If these adjustments were made to the Bill, it would have a marked greater chance of approval in Congress, the Senate and by the President. There are numerous opportunities to meet the Native Hawaiian people half-way in many areas with continued dialog. Clearly all parties have much to gain by continuing the discussion and working together to formulate policy that is beneficial to all.

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