



Association of Hawaiian Civic Clubs
P. O. Box 1135
Honolulu, Hawai'i 96807

TESTIMONY BY
PRESIDENT SOULEE STROUD
WITH RESERVATIONS ON SB 1520, SD2
Relating to Government.

Before the House Committee on Hawaiian Affairs
and Committee on Culture & the Arts
March 16, 2011; 8:30 am; Room 329

Aloha Madam Chair Faye Hanohano and Madam Chair Jessica Wooley and members of the Joint Committees on Hawaiian Affairs and Culture and the Arts. I am Soulee Stroud, President of the Association of Hawaiian Civic Clubs here today to testify with reservations on SB 1520 SD2 .

The first civic club was founded in 1918 and we continue to thrive with clubs on all islands of the State of Hawaii, 11 states on the continent and the District of Columbia. We now have sixty component clubs participating in those activities that our founders envisioned – historic preservation, education of Native Hawaiian students, protection of traditional culture and advocacy for Hawaiian Home Lands.

This Legislature has before it, three bills that intend to deal with the issue of State recognition of the Native peoples of Hawai'i nei. Of the three bills that are circulating, SB1 SD2 is by far, the most comprehensive, thorough, and substantive bill. We support SB1 SD2. We have reservations about supporting SB 1520 SD2.

SB 1520 SD2 has as its purpose and intent, to provide a process for the reorganization of a first nation government by the Native Hawaiians and for the subsequent recognition by the State of Hawai'i.

We support the Findings and Definition sections of SB 1520 SD2 and find them to be a substantial articulation of the historic conditions of kanaka o'iwi

and provides for appropriate participation and representation of Hawaii's native peoples.

We have reservations about the language in proposed Sect. 4 which allows the Governor to make recommendations of "any Native Hawaiian membership organization" to the "commission" to develop the rolls. We prefer the language of SB 1 SD2.

We acknowledge and understand that both chambers are preparing themselves for the upcoming conference committees and are trying to develop a strategy for your bills. We believe that the Senate bills are far superior to the House bills on this issue and hope that you will give careful thought and attention to adopting the positions taken by this Senate on this matter as you structure your response to the need for State recognition of a Native Hawaiian governing entity.

Thank you for your consideration of our testimony on SB 1520 SD2 .

For further information please contact our Government Relations Chair, Jalna Keala at jalna.keala2@hawaiiantel.net



LATE TESTIMONY

March 15, 2011

Testimony in support of SB1520, Relating to Government

Submitted to: The House Committee on Hawaiian Affairs

From: Kitty M. Simonds, President Maunaloa Hawaiian Civic Club

Aloha Representative Hanohano and Members of the Committee,

We appreciate the support of the Legislature to provide for recognition of a native Hawaiian government by the State of Hawaii.

The Hawaiian people have waited for more than 3 decades for this dialogue to begin. The challenges to native rights, assets and lands continue to increase. The time to begin this dialogue is NOW.

We urge continuance of the legislative oversight of the ceded lands until indigenous self-governance is achieved.

We look forward to a continuing dialogue on this extremely important legislation.

Maunaloa Hawaiian Civic Club
P.O. Box 240388, Aina Haina Station
Honolulu, Hawai'i 96824



LATE TESTIMONY

46-063 Emepela Pl. #U101 Kaneohe, HI 96744 · (808) 679-7454 · Kris Coffield · Founder/Legislative Director

**TESTIMONY ON SENATE BILL 1520, SENATE DRAFT 2, RELATING TO
GOVERNMENT**

**House Committee on Hawaiian Affairs
Hon. Faye P. Hanohano, Chair
Hon. Chris Lee, Vice Chair**

**Wednesday, March 16, 2011, 8:30 AM
State Capitol, Conference Room 329**

Honorable Chair Hanohano and committee members:

I am Kris Coffield, legislative liaison for the Imua Alliance, a nonpartisan political advocacy organization that currently boasts over 60 local members. On behalf of our members, we offer this testimony in opposition to SB 1520, SD2.

While the lack of a statute designating Native Hawaiians as the state's official, and only, indigenous people is disconcerting, this measure undermines the purpose of such a statute by disavowing a pluralist, inclusive process of self-determination in favor of a more limited gesture. Specifically, section § -6 of the bill grafts a reorganization and ratification process upon the movement for self-determination that has not been agreed to by all, or even a majority, of potentially affected parties. Lifted largely from the stalled Akaka Bill, these provisions, while elegant and democratic, most glaringly subvert the will of constituent groups by demanding that the first nation governing council facilitate discussion on the creation of a for-profit public instrumentality, the Native Hawaiian Corporation, modeled after the Narragansett Indian Land Management Corporation, a nine-member board operationalized, in 1979, to oversee land granted to the Narragansett Indians through a land claims settlement, the year before. As proposed in this measure, the corporation would receive, manage, and hold funds disbursed from the settlement of ceded lands claims. Others have noted that the illegality of the overthrow and annexation renders oxymoronic the term "ceded," since a body politic, including a provisional government, cannot cede lands that it does not legally control. Even from a pragmatic legal perspective, however, the imposition of a Native Hawaiian Corporation upon the Hawaiian people, who have yet to strike a ceded lands settlement with the state regarding prior and future use of 1.8 million acres of crown lands, puts the proverbial cart before the horse—why

should Hawaiians be cajoled into accepting a specific fiduciary structure before the structure of their *settlement* is known?

Moreover, SB 1520 grants too much authority to the governor. For example, section § -4(a) of this measure vests the governor with the sole power to establish the nine-member roll commission, while section § -6(j) grants the governor authority over the certification of the first nation government's organic, founding governing documents. Understandably, the state has an interest in assuring that all constituents of an autonomous governing body are subject to the same laws and regulations as non-Hawaiian citizens, but this measure, again, discounts Native Hawaiian input in favor of executive oversight, placing the interests of state over the interests of Hawaii's aboriginal population in order to diminish the effectuality of dissenting factions. Instead of being selected by the governor alone, roll commission members should be appointed by multiple groups, including the governor, State Legislature, Office of Hawaiian Affairs, and, possibly, the Association of Hawaiian Civic Clubs. Certification of organic documents should also be pluralized, ensuring that no one group (in this case, the executive branch) wields veto power over the collective will of Native Hawaiians.

A better vehicle for achieving recognition of Native Hawaiians is SB 1, SD2, also being heard by the committee. Language from SB 1520, SD2 may be incorporated into SB 1, SD2 for clarification purposes as necessary. The ultimate question the committee must ask itself when considering these pieces of legislation is: How, if at all, can a governing body founded upon the overthrow and suppression of an indigenous people's sovereignty subsequently affirm that people's political rights? Any answer must involve a concerted effort to allow Native Hawaiians, our archipelago's indigenous people, to speak for themselves about their political aims, and the processes they condone for achieving those aims. Unfortunately, SB 1520, SD2, in its current form, does exactly the opposite.

Mahalo for the opportunity to testify in opposition to this bill.

Sincerely,
Kris Coffield
Legislative Director
IMUAlliance

HOUSE OF REPRESENTATIVES
THE TWENTY SIXTH LEGISLATURE
REGULAR SESSION OF 2011

LATE TESTIMONY

COMMITTEE ON HAWAIIAN AFFAIRS

Rep. Faye P. Hanohano, Chair

Rep. Chris Lee, Vice Chair

COMMITTEE ON CULTURE & THE ARTS

Rep. Jessica Wooley, Chair

Rep. Della Au Belatti, Vice Chair

DATE: March 16, 2011

TIME: 8:30 a.m.

PLACE: Conference Room 329

State Capitol

415 South Beretania Street

Madame Chairs, distinguished committee members, ladies and gentlemen:

My name is Louis "Buzzy" Agard Jr, a Native Hawaiian descendent. I wish to express my opposition to SB 1520. As I support the 38,000 signature Petition by the Aloha Ka Lai Aina group in 1897 to oppose annexation, when they collectively Stated that they did not want "to be annexed in any shape or any form and wished to retain their own government".

Those of us testifying today are descendents of our great grand parents J.M. Kepohoni Kealoha our great grand father and our great grand mother Lilia Kahu. Our grand mother Apikaila also with her siblings also signed the 1897 petition opposing annexation. And we here today continue to honor their wishes and memories as the nationalists they represented to be.

We do this even though their wishes have been denied and annexed in spite of their choice to be allowed to carry on their lives as before. We believe that thinking people will realize the pain and injury that has occurred to our ancestors when Hawaii was annexed in 1898 over their objections. In 1993 the Apology Bill 103-150 was passed in the Congress. We look forward to that document to help correct any wrongs inflicted. Thank you for your kindness in hearing us out based on our dilemma.

Testimony submitted to the
House Committee on Hawaiian Affairs

Hearing
8:30 AM, Wednesday, March 16, 2011

Relating to SB 1 and SB 1520

Testimony from

Poka Laenui, Chairperson of the Aha Hawai'i O'iwi

(Native Hawaiian Convention)

LATE TESTIMONY

Aloha Kakou:

I submit the following for your consideration of the above two referenced bills.

When the Hawaii society, during the 1990's and following, addressed the concept of the native Hawaiian people as the indigenous peoples of this place, and the additional concept of self-determination including concepts of autonomy and sovereignty, there were a multitude of historical, legal, philosophical, civic, and cultural considerations added to a blend of ideas and concerns. Due to the limitation of space and time within which this venue of committee hearings provide, I will limit my present intervention to two aspects which appears to have been missing from this committee's purview which may assist the committee in reaching an informed decision on the two bills before it.

These two aspects I have chosen address the concept of indigenous peoples' rights and the international law rights of the Native Hawaiian people.

Beginning in the early 1990's during the periods in which the Sovereignty Advisory Council, the Hawaiian Sovereignty Advisory Commission, the Hawaiian Sovereignty Elections Council, and the Native Hawaiian Vote took place, it was certainly not lost to the participants in all of those processes, the continuing international implications of the rights of the Hawaiian people to self-determination, and of the special rights of Native Hawaiians to self-determination. International law and the processes which were taking place in international venues were instructive of these two areas of concern.

Beginning in 1945 with the formation of the United Nations itself, we could trace the development of rights of the Hawaiian people to self determination from the perspective of the Charter of the United Nations. Beginning in 1982 with the formation of the U.N. Working Group on Indigenous Populations, we could trace the development of Native Hawaiians as indigenous peoples which eventually culminated in the United Nation's Declaration on the Rights of Indigenous Peoples.

I will trace these dual sources of rights and its implications to the Native Hawaiian people.

The first development mentioned, i.e. from the formation of the United Nations in 1945, addressed the political right to self-government. In the Charter of the United Nations, confirmed in the U.N. meeting in San Francisco, there was developed Article 73 regarding the situations of “Non-Self Governing Territories” to which those “administering powers” were to be obligated to assist the people of such territories to self-governance. The names of those territories were not listed in the Charter, nor were the “administering authorities” named.

It was not until 1946 during the first General Assembly of the United Nations, under General Assembly Resolution 66, were the non-self governing territories (subsequently known as “colonies”) named, along with their “administering authorities” (subsequently known as colonial states). The United States of America submitted itself as the administering authorities for a number of territories or colonies. These territories were Guam, American Samoa, Alaska, Puerto Rico, Virgin Islands, Panama Canal Zone, and Hawai`i.

In exercising self-governance (later more generally called self-determination), the people under those non-self governing conditions, are to exercise self-governance by selecting one of three options, independence, free association, or integration within the administering authority. (See U.N. G.A. Resolution 1514 and 1541 along with their associated documents and other U.N. reporting requirements.)

In 1959, Hawaii’s self-determination act was considered to be the “Statehood Plebiscite” in which the question posed was, “Shall Hawaii be immediately admitted into the Union as a State?” A vote yes would be a vote for integration of Hawaii into the United States. A vote no would have been a vote for Hawaii to remain a territory of the United States.

The option for independence or free-association were never placed before the people.

In 1959, the U.S. reported to the United Nations that the people of Hawaii exercised its right of self-determination and in that exercise, had elected to be integrated into the United States as a State. The U.N. General Assembly thus removed Hawaii from the list of places to be decolonized.

In about the 1970’s and following, people became more aware of the history of the overthrow of the Hawaiian nation and began tracing the international development of the right of self-determination. Hawaiian sovereignty groups and activities began to be more exploratory of the cultural and political rights of Hawaiians. This helped to ignite the discussions and debate over the legitimacy of Statehood, the continuing right of self-determination, and the uncovering of the events which led to the presumption that there was a valid exercise of self-determination in Hawaii resulting in the termination of the claim for Hawaiian independence.

The discussion which circulated around the Native Hawaiian Vote and the formation of the Native Hawaiian Convention very much included this history of Hawaii and the rights of the people of Hawaii.

The second area of discussion revolved around the rights of indigenous peoples. In 1982, the United Nations struck the Working Group on Indigenous Populations, with two mandates, a) to review the events affecting indigenous peoples around the world, and b) to draft a set of standards to form the basis for an explicit statement of the rights of indigenous peoples throughout the world. The International Labor Organization (ILO) began their own review of the only existing international convention (treaty of multiple states) dealing with the rights of indigenous peoples approximately 1986.

The work at the United Nations and at the ILO was not lost to the general discussions in Hawaii during the 1990's as Hawaiians also started discussing the Hawaiian expression of self-determination in our communities. I had not only personally served on all of the Hawaiian organizations previously mentioned leading to the run-up of the Native Hawaiian Vote and the Native Hawaiian Convention, but had also acted as the political spokesperson for the World Council of Indigenous Peoples and as its head of delegation to the United Nations working group; designated by the ILO as the Indigenous Expert to the committee on the redrafting of the ILO Convention which resulted in ILO Convention 169 dealing with the rights of Indigenous Peoples; and, addressed the General Assembly of the United Nations in 1993 during the International Year of the World's Indigenous Peoples. Information of these international activities was very much available to our local discussions regarding the rights of Native Hawaiians as indigenous peoples, and how we wanted to formulate our own governing entity.

Thus, when the Native Hawaiian Vote was taken in which the Hawaiian constituents voted to follow a process of electing their own delegates to a Native Hawaiian Convention, it was with a clear understanding of the complexity of both the right of self-determination given our historical background and obligations of the United States as well as the rights of indigenous peoples within a colonial country.

The vote result which called for an election of delegates to the Native Hawaiian Convention was a clear call for Hawaiian's elected delegate to meet among themselves and make their recommendation to the Hawaiian people on questions of independence, free association or integration within the United States.

The vote for a Native Hawaiian Convention was a call to give the Hawaiian people the right to determine the future of the people, both as an indigenous people within the United States, and/or as a people independent from the United States, without having their choice pre-determined by the State government or the United States of America.

The only appropriate action for the Legislature to take now, is to respect the outcome of that vote, allow the Native Hawaiian Convention to complete its work, and provide the support necessary for that work to be completed.

Sincerely,

Poka Laenui