

DAVID Y. IGE
GOVERNOR OF
HAWAII



SUZANNE D. CASE
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COMMISSION ON WATER RESOURCE MANAGEMENT

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DEPUTY DIRECTOR - WATER

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FORESTRY AND WILDLIFE
HISTORIC PRESERVATION
KAHOOLAWE ISLAND RESERVE COMMISSION
LAND
STATE PARKS

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

Testimony of
SUZANNE D. CASE
Chairperson

Before the House Committee on
WATER & LAND

Wednesday, March 15, 2017
10:30 AM
State Capitol, Conference Room 325

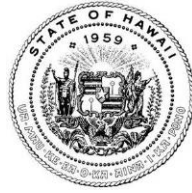
In consideration of
SENATE BILL 717, SENATE DRAFT 2
RELATING TO PUBLIC REAL PROPERTY

Senate Bill 717, Senate Draft 2 proposes to establish 1) a temporary program to clean up state property after the departure of illegal campers, to be housed in a department designated by the Governor, and 2) a temporary sheriff's patrol program to enforce no trespassing, camping and other violations on state property, and 3) appropriates funds to three departments. **The Department of Land and Natural Resources (Department)** appreciates the intent of the bill and offers the following comments.

The Department currently uses Section 171-31.5, Hawaii Revised Statutes (HRS), to guide its treatment of abandoned property. However, the current legal inability to easily distinguish trash from abandoned property makes it difficult to remove trash in areas abandoned by illegal campers. Section 171-31.5, HRS, requires that property be abandoned for 24 hours and then the owner must be given 30 days to reclaim the property. As this measure is currently written, the definition of "personal property" and the maximum time period for storage will be developed by rule, which may not be applicable across various state jurisdictions.

The Department suggests that the timeframe for this temporary program be extended to three years. Given that the bill allows six (6) months for planning, the allotted six (6) months for implementation may not be enough time to hire necessary personnel, provide training and have enough time to adequately evaluate the program. The Department also suggests that, given the funding, timeframe, and staffing allotments, the temporary program be limited to one island. The Department appreciates the appropriation of funds as long as it does not replace other priorities requested in the Executive Budget.

Thank you for the opportunity to comment on this measure.



EXECUTIVE CHAMBERS
HONOLULU

DAVID Y. IGE
GOVERNOR

March 15, 2017

TO: The Honorable Representative Ryan I. Yamane, Chair
House Committee on Water and Land

FROM: Scott Morishige, MSW, Governor's Coordinator on Homelessness

SUBJECT: SB 717 SD2 – RELATING TO REAL PROPERTY

Hearing: March 15, 2017, 10:30 a.m.
Conference Room 325, State Capitol

POSITION: The Governor's Coordinator on Homelessness appreciates the intent of this measure, as it addresses key aspects of the State's strategy to address homelessness and particularly issues related to unauthorized encampments on public land. The Coordinator notes that cleanup and enforcement efforts to address encampments must be coordinated with homeless outreach efforts that connect homeless persons to necessary services and housing. The Coordinator asks for the Legislature's support of the Governor's Executive Budget request, which includes \$1.5 million for homeless outreach, and \$2 million for a stored property program that addresses property abandoned on or seized from state lands. The Coordinator defers to other executive departments in regard to current statutory processes and issues related to implementation.

PURPOSE: The purpose of the bill is to establish a temporary program to clean up state real property after the departure of persons who have illegally camped or lodged on state real property. The bill requires the Governor to designate the state executive department responsible for the program, and establishes a temporary sheriff patrol program to enforce laws against illegally camping, trespassing, or being present on state real property. In addition, the bill makes appropriations to support the proposed activities.

Note that the Legislature already provided in section 171-31.5, Hawaii Revised Statutes (HRS), a process for the disposition of abandoned property on state land for all individuals, including individuals who are homeless. Section 171-31.5, HRS, requires a 30 day notice that property has been abandoned or seized, and provides a means for owners or abandoned or seized property to retrieve such property, which could include government issued identification or other government records.

However, while section 171-31.5, HRS, describes a process to address abandoned or seized property, there is currently no consolidated staffing or resources to address this issue across multiple state departments and agencies. This is in contrast to the City and County of Honolulu, which has a designated team to address issues related to stored property across multiple city departments. The Stored Property Program included in the Governor's Executive Budget request would be modeled after the City and County of Honolulu program, and would consolidate efforts across state departments and agencies statewide.

In addition to directly addressing issues related to property, homeless outreach is critical to ensure that homeless persons have access to shelter, and are not simply displaced from one unsafe living area to another. The state's strategy to address homelessness includes a strong connection between homeless outreach and efforts to address unauthorized encampments on public land. For example, in Kaka'ako Makai, the role of homeless outreach played a key role in assisting over 290 of an estimated 300 homeless individuals to access shelter and permanent housing between August 2015 and present.

Thank you for the opportunity to testify on this bill.



HAWAII COMMUNITY
DEVELOPMENT AUTHORITY



KAKA'KO
KALAELOA

David Y. Ige
Governor

John Whalen
Chairperson

Jesse K. Souki
Executive Director

STATEMENT OF

JESSE K. SOUKI, EXECUTIVE DIRECTOR
HAWAII COMMUNITY DEVELOPMENT AUTHORITY

BEFORE THE
HOUSE COMMITTEE ON WATER AND LAND

ON
Wednesday, March 15, 2017
10:30 A.M.
State Capitol, Conference Room 325

in consideration of
SB717, SD2 – RELATING TO PUBLIC REAL PROPERTY

Chair Yamane and Vice Chair Kong and members of the committee.

This testimony reflects my view alone. The Hawaii Community
Development Authority (HCDA) supports SB717, SD2.

The HCDA board strongly supports any effort to address illegal activities
in its parks in coordination with other agencies.

We defer to the Governor’s Coordinator on Homelessness on other aspects
of this bill. However, specifically regarding management of HCDA’s public
parks, we provide comments on Section 20. Section 20 would appropriate “out of
the general revenues of the State of Hawaii the sum of \$ or so much thereof as
may be necessary for fiscal year 2017-2018 for the removal of debris and litter left
on the real property of the HCDA after the departure of persons known or
suspected to have illegally or without permission camped or lodged on the real
property.”

Based on HCDA’s past experience, under the advice and counsel of the
Attorney General, the cost of enforcing HCDA’s park rules and cleanup is as
follows:

- Standard 4-hour shift (4-man cleanup crew, 2-man documentation crew),
approximately \$2,178.03;
- Estimated waste removal fees for standard shift (empty dumpster/
hazardous item disposal), approximately \$678.00; and
- Monthly Stored property management fee, approximately \$1,884.90.

In order to keep the park clean and safe for all users, and to avoid an

547 Queen Street
Honolulu, Hawaii
96813

Telephone
(808) 594-0300

Facsimile
(808) 594-0299

E-Mail
contact@hcdaweb.org

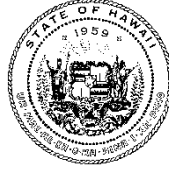
Web site
www.hcdaweb.org

unmanageable situation, we recommend twice a month enforcement and cleanup. Based on the above numbers and assuming the current rates do not change, the **annual cost of enforcements would be approximately \$91,163.52.**

This is a conservative but reasonable estimate. From December 2015 to today, HCDA has spent approximately \$362,000.00 on enforcement and cleanup efforts. This accounts for 79 night-time enforcement and cleanups, and includes the contracts discussed above and startup costs such as improved signage, stored property bins, and related equipment.

Thank you for the opportunity to provide comments on this bill.

DAVID Y. IGE
GOVERNOR



RODERICK K. BECKER
Comptroller

AUDREY HIDANO
Deputy Comptroller

STATE OF HAWAII
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES

P.O. BOX 119, HONOLULU, HAWAII 96810-0119

TESTIMONY OF
RODERICK K. BECKER, COMPTROLLER
DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES
TO THE
HOUSE COMMITTEE ON WATER AND LAND
ON
WEDNESDAY, MARCH 15, 2017
10:30 A.M.
CONFERENCE ROOM 325

S.B. 717, S.D. 2

RELATING TO PUBLIC REAL PROPERTY.

Chair Yamane, Vice Chair Kong, and members of the Committee, thank you for the opportunity to submit testimony on Senate Bill 717, S.D. 2.

The Department of Accounting and General Services (DAGS) supports the intent of the measure and offers the following comments for your consideration.

The measure establishes 1) a temporary program to cleanup state property after the departure of illegal campers, that will be housed in a department to be designated by the Governor; 2) a temporary sheriff's patrol program to enforce no trespassing, camping, and other violations on state property, undertaking appropriate steps necessary in accordance with the law; and 3) appropriates funds to the department to be designated by the Governor and to the departments of public safety, transportation, and land and natural resources, and the Hawaii Community Development Authority.

DAGS notes that the proposed cleanup and enforcement efforts on state land will not be the endeavor of a singular department, but must be conducted in conjunction with the homeless outreach to provide appropriate social services and alternative housing; property transportation and storage services; and appropriate law enforcement services to ensure public safety and security. In addition to these services, the cleanup and storage of personal property will need to allow property owners to reclaim their stored property from centralized storage sites. DAGS further notes that the program may not necessarily save money. Similar operations may need to be duplicated on the neighbor islands and there would need to be a high degree of coordination between affected departments.

DAGS is unable to further comment on the implementation of such a program at this time as these functions are unfamiliar to and beyond DAGS' scope of general services.

Thank you for the opportunity to submit testimony on this matter.

DAVID Y. IGE
GOVERNOR



STATE OF HAWAII
DEPARTMENT OF PUBLIC SAFETY
919 Ala Moana Boulevard, 4th Floor
Honolulu, Hawaii 96814

NOLAN P. ESPINDA
DIRECTOR

Cathy Ross
Deputy Director
Administration

Jodie F. Maesaka-Hirata
Deputy Director
Corrections

Renee R. Sonobe Hong
Deputy Director
Law Enforcement

No. _____

TESTIMONY ON SENATE BILL 717, SENATE DRAFT 2
RELATING TO PUBLIC REAL PROPERTY

by

Nolan P. Espinda, Director
Department of Public Safety

House Committee on Water and Land
Representative Ryan I. Yamane, Chair
Representative Sam Satoru Kong, Vice Chair

Wednesday, March 15, 2017; 10:30 a.m.
State Capitol, Conference Room 325

Chair Yamane, Vice Chair Kong, and Members of the Committee:

The Department of Public Safety (PSD) appreciates the intent of Senate Bill (SB) 717, Senate Draft (SD) 2, which would: 1) establish a temporary program for the removal of debris and litter from state real property after departure of persons known or suspected to have illegally or without permission camped or lodged on such lands, and 2) establish a temporary sheriff patrol program. PSD, however, offers the following concerns.

First, PSD emphasizes that clean up and enforcement efforts must be coordinated with homeless outreach efforts that connect homeless persons to social services and housing as well as the need for due process in addressing property left behind. Any sheriff patrol program to address violations of trespassing, camping, or park closure on state lands cannot circumvent any applicable legal requirements that would apply regarding appropriate social services and property storage.

Second, SB717, SD 2 mandates that the temporary sheriff patrol program shall apply to state real property under the ownership, control, or management of any state agency. SB717, SD 2 further states that any participating state agency

shall not be charged by PSD for the cost of participation. SB717, SD 2 further defines “state agency” as including the judiciary, but excluding the Office of Hawaiian Affairs. It is unclear whether “state agency” includes such semi-autonomous agencies such as the University of Hawaii, the Department of Education, and the Stadium Authority.

Third, page 10, lines 1 – 4 defines “laws prohibiting an individual from trespassing on state real property” as an offense under sections 708-813, 708-814, 708-814.5 and 708-815 of the Hawaii Revised Statutes. PSD notes that SB 895, SD 1 proposes to add another offense of criminal trespass under a yet to be determined section of Chapter 708 of the HRS, and suggests that SB 717, SD 2 be amended to include this new proposed offense of criminal trespass onto state lands.

Fourth, Section 16 of this proposed bill authorizes two (2) temporary FTE deputy sheriff positions. For purposes of security, specifically for the deputy sheriffs themselves, the outreach workers, the property storage crew, the homeless, and the community in which they reside, two deputy sheriffs would not be sufficient. To calculate the amount that would be sufficient for an appropriation, PSD would need to know if the sheriff patrol program would be operational 8 hours a day for 7 days a week, 18 hours a day (2 shifts) for 7 days a week, or 24 hours a day (3 shifts) for 7 days a week, or any other anticipated operational periods.

PSD would also note that park closure hours often include late night hours, which would involve at least two shifts for deputy sheriffs. The number of deputies necessary for any operation will depend on the location, size of the encampment, nature of any reported incidents, and other safety and security factors. Here, a blank appropriation is made to PSD for the sheriff patrol program, for the periods January 1, 2018 until June 30, 2018, and July 1, 2018 until June 30, 2019. Just an example, if SB 717, SD 2 envisions only two deputy sheriffs, which we again emphasize is not sufficient, to operate for only 8 hours a day, 5 days a week, then PSD’s normal operational plan is to estimate for three (3) deputy sheriffs to assure that both positions are covered in the event of leave by either of the deputies

prompted by sick, vacation, comp time, training, Family Leave, and other issues. Three deputy sheriffs for the full first fiscal year would cost \$224,135. Three deputy sheriffs for the second fiscal year would cost \$203,231. The difference in costs from the first to the second year is based upon initial equipment issuance (uniforms, gun, badge, etc.) upon graduation from the recruit academy. If these deputy sheriffs are to cover all State lands, they would need vehicles. The cost of one patrol car is \$43,000.

Finally, PSD would request permanent full-time positions rather than temporary full-time positions because recruitment is difficult for temporary positions. Furthermore, PSD invests in a law enforcement recruit academy for each deputy sheriff which involves six months of extensive training. If, as this bill indicates, an alternative is to backfill these positions, then PSD would further note that the Sheriff Division would anticipate personnel staffing issues and overtime costs, which are yet to be determined.

Thank you for the opportunity to present this testimony.

kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Saturday, March 11, 2017 1:01 PM
To: waltestimony
Cc: mendezj@hawaii.edu
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*

SB717

Submitted on: 3/11/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Javier Mendez-Alvarez	Individual	Support	No

Comments:

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Monday, March 13, 2017 4:35 PM
To: waltestimony
Cc: burgharc@gmail.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM

SB717

Submitted on: 3/13/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
cheryl	Individual	Oppose	No

Comments: Wondering who determines and where these locations are that these laws are so concerned about? Is it the houseless people, taking away homes from Hawaiians or on places like the Mauna, the rivers and other places that are important for traditional practice?

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 7:20 PM
To: waltestimony
Cc: aashishhemrajani@yahoo.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Aashish Hemrajani	Individual	Oppose	No

Comments: I am writing to offer testimony in opposition to SB 717. Specifically concerning is the section which calls for the creation of a specific state sheriff's patrol to remove campers from state lands. This will disproportionately affect the homeless, who are already being shuffled from city to state lands and back, due to the haphazard and cruel enforcement of a series of sit/lie bans and other laws that criminalize the homeless. I have studied the problem of homelessness in Honolulu for over seven years as an anthropologist, and am now working to offer shelter and housing services to the population that will be most negatively impacted by this bill. What will get campers off of state lands and out of view from tourists is a Housing First program that really works. There simply are not enough housing units, or even shelter beds, to accommodate all the homeless people that will be affected by this proposed sheriff's patrol. Homelessness cannot be solved by punitive law enforcement, and such measures are indicative of a viciously cruel system when the appropriate social services are wholly inadequate and underfunded. Millions have been wasted on criminalization, and yet the numbers of homeless people in the state have grown. There is absolutely no evidence that the problem is the lack of one more law to further punish people simply for being too poor to afford a place to live.

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 9:26 PM
To: waltestimony
Cc: hapagurl7669@yahoo.com
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Theodora Akau Gaspar	Individual	Oppose	No

Comments:

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Sent: Tuesday, March 14, 2017 9:47 PM
To: waltestimony
Cc: ponosize@hotmail.com
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Pono Kealoha	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 10:03 PM
To: waltestimony
Cc: akamaimom@gmail.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Felicia Cowden	Individual	Oppose	No

Comments: Please work to solve the houseless problem rather than further traumatizing the victims. The "rubbish" is typically their only belongings. This sequence of bills to criminalize the homeless is a frightening overreach of government.

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From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 10:16 PM
To: waltestimony
Cc: voicesofkauai06@gmail.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
KUULEINANI NAPUANANI KANINAU	VOICES OF KAUAI	Oppose	No

Comments: PLEASE OPPOSE Bill HB1142 RE: Criminal Trespass on Public Lands, Transportation lands or otherwise. My name is Kuuleinani Napuanani Kaninau I am a resident of the County of Kauai, a Veteran of the US Navy, & from October 2012 until Dec. 2015 I was HOUSELESS for the FOURTH time since 2004. Voices of Kauai a non-profit organization was CREATED in 2006, & our PURPOSE "hoping to give VOICE to those who feel they have none..." I created my organization at first to assist fellow VETERANS who were HOUSELESS & gradually extended my services to our HOUSELESS COMMUNITY here on Kauai while HOUSELESS myself for the SECOND time in 2006. As a VETERAN I have been SUCCESFULLY housed under the HUD/VASH Program for now 15 months. Truth be told, in that time were it not for the WRAP AROUND SERVICES on TWO OCCASIONS, HOUSELESSNESS would have again been my REALITY. HOUSELESSNESS here in Hawaii has CONTINUOUSLY placed our state NUMBER 1 in the nation for several YEARS so much so that a STATE OF EMERGENCY & a request for emergency funds were REQUESTED by our current Governor last year. Attempts to remedy this STATE OF EMERGENCY have had some SMALL SUCCESS however it CONTINUES TO BE DIFFICULT to ELIMINATE & OR MINIMIZE our HOUSELESSNESS community. Given that our success as a state, CRIMINALIZING HOUSELESSNESS with no VIABLE OPTIONS, SOLUTIONS & or SEVERELY LIMITED RESOURCES, DOES NOT & HAS NOT yet worked & only further strips these less fortunate PEOPLE of our COMMUNITIES of their dignity. If not "here or there" then WHERE? Kauai has ONE HOUSELESS SHELTER that only RECENTLY increased their size to FORTY BEDS with a first come first serve basis (OUT BY 8 am)...the reality is that there are still nearly TWO HUNDRED who are left without shelter & or place to rest WHEN IT IS NEEDED... Oahu is losing or has lost & or had to minimize its shelter sizes due to new laws... THE THOUGHT NEEDS TO BE we should RESOLVE the issues with the NEW LAWS that have CUT FUNDING & SHELTER SIZES THAT WILL PUT PEOPLE ON OR BACK ON THE STREETS BEFORE WE CRIMINALIZE MEMBERS OF OUR COMMUNITY. I attended both my county & state HOUSELESS conventions in 2015...WHILE BEING HOUSELESS. I was able to speak on behalf of myself & the community I SERVE...& am reiterating my main argument WE ARE NOT UTILIZING THE RESOURCES AVAILABLE OR PEOPLE THAT LIVE & BREATHE THE DIFFICULTIES OF HOUSELESSNESS... DECISIONS ARE BEING MADE WITH SEVERLY LIMITED BOOTS TO THE GROUND EXPERIENCE BY PEOPLE THAT DO NOT KNOW HOW SERVE THE BEST INTERESTS & OR NEEDS OF OUR HOUSELESS COMMUNITY... As I always do I am offering the RESOURCES & EXPERIENCE Voices of Kauai has gained in its 11 years of business; 4 years & 11 mo. (TOTAL) of which I LIVED & BREAHTED THE

REALITIES & DIFFICULTIES OF HOUSELESSNESS & the laws that have HINDERED more than they have helped to RESOLVE & OR ELIMINATE HOUSELESSNESS for our state. Respectfully,
Ku'uleinani Napuanani Kaninau

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kong2 - Crystal

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Sent: Tuesday, March 14, 2017 10:31 PM
To: waltestimony
Cc: mmartin96825@gmail.com
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Bonnie M. Livingston	Individual	Support	No

Comments:

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 10:54 PM
To: waltestimony
Cc: cushmanzoo@hawaiiintel.net
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Sharron Cushman	Individual	Oppose	No

Comments: I strongly oppose SB717 bill.

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:32 PM
To: waltestimony
Cc: 2spiralbirth@gmail.com
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
pahnelopi mckenzie	Individual	Oppose	No

Comments:

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Sent: Tuesday, March 14, 2017 11:47 PM
To: waltestimony
Cc: shannonkona@gmail.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Shannon Rudolph	Individual	Oppose	No

Comments: STRONGLY OPPOSE! While no one would oppose 'clean up', it's concerning that this bill is hurting houseless people rather than helping them. Also, concerned this bill may be used against Hawaiian cultural practitioners who may need to be on 'state lands after hours'.

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kong2 - Crystal

From: mailinglist@capitol.hawaii.gov
Sent: Tuesday, March 14, 2017 11:57 PM
To: waltestimony
Cc: naniomerod1@gmail.com
Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/14/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
MaryAnn Omerod	Individual	Oppose	No

Comments:

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From: mailinglist@capitol.hawaii.gov
Sent: Wednesday, March 15, 2017 12:12 AM
To: waltestimony
Cc: tulsigreenlee@icloud.com
Subject: Submitted testimony for SB717 on Mar 15, 2017 10:30AM



SB717

Submitted on: 3/15/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Tulsi Greenlee	Individual	Oppose	No

Comments: This sounds like it will hurt homeless people and negatively affect the gathering rights of native Hawaiians. Please oppose this bill. Thank you

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Sent: Wednesday, March 15, 2017 6:54 AM
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Subject: *Submitted testimony for SB717 on Mar 15, 2017 10:30AM*



SB717

Submitted on: 3/15/2017

Testimony for WAL on Mar 15, 2017 10:30AM in Conference Room 325

Submitted By	Organization	Testifier Position	Present at Hearing
Raul Nohea Goodness	Individual	Oppose	No

Comments:

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Testimony of Laulani Teale, MPH

in OPPOSITION to SB 717 SD2, RELATING TO PUBLIC REAL PROPERTY COMMITTEE ON WATER AND LAND

Rep. Ryan I. Yamane, Chair, Rep. Sam Satoru Kong, Vice Chair
Rep. Ty J.K. Cullen, Rep. Nicole E. Lowen, Rep. Cindy Evans, Rep. Calvin K.Y. Say,
Rep. Linda Ichiyama, Rep. Beth Fukumoto, Rep. Chris Lee

Thursday, March 15, 2017 10:30 AM Conference Room 325

LATE

Aloha and mahalo for this opportunity to testify.

I am a longtime cultural practitioner and bearer of important, ancient knowledge from many great teachers.

One of my teachers, Kamakahukilani Von Oelhoffen, was a great practitioner of ancient “archaeo-astronomical” star knowledge. Continuing her traditions means I go to places at night where I can observe the heavens from many angles. This might be a hill, a forest, a mountaintop, or any of many other possibilities. I also “camp” overnight frequently, and I stay as long as I need to stay to complete whatever ceremony or task I must. Sometimes I am awakened in the middle of the night and must get up and do whatever spiritual/cultural practice is needed. This is extremely important, not only for myself but for all of those to whom I may in turn pass the knowledge I was given, and for the healing of the land and our human relationship to it, which is the focus of much of our prayer.

My traditional gathering practices would be also severely impacted by SB 717 in any form. Some plant materials need to be gathered in the very early morning, far before it is light. Some are deep within the forest where it is better to stay overnight. Sometimes, we must pray for days.

To interfere with these practices is wrong. Because it knowingly extinguishes established practices in some very important areas, it could be seen as genocidal.

When we conduct these practices, we are in a very open, vulnerable place with connection to much that cannot be seen. We do not need a troupe of sheriffs to invade the sanctity of our sacred space! Their very presence, as long as they are armed, destroys the kapu of peace that much of our work requires.

As a Public Health professional, I must very strongly oppose this measure. The risk of cultural trauma due to this measure is very, very high. Cultural trauma leads to real health problems, particularly among indigenous peoples. This measure would accelerate the destruction of Kānaka culture. I do not accept that.

Please note that, as I mentioned in my testimony on SB 895, I never get a permit to do any of my deeply customary practices. I cannot. This goes against the kapu that I was given, and must abide by. This measure would exclude me from many places of medicinal gathering and practice, including many little-recognized sacred sites, unless I were to do so illegally.

In this way, traditional practitioners are being criminalized for continuing our traditions. This is not right.

Please also remember that “Public Real Property” is in fact mostly **Crown and Government land stolen from the Kingdom of Hawai‘i in 1893**. *Will you now criminalize the people of that land for practicing our culture upon it?*

Article 12, Section 7 of the Hawai‘i State Constitution protects access and practice for Kanaka. However, in the real world, most enforcers have never read the Constitution, and have no idea how it applies. The default is to arrest the practitioner, who then needs to prove their rights in court. The lower courts do not generally rule on constitutional grounds, so the practitioner will lose; their only real chance to win is at the Supreme Court level – IF the political climate allows this. This is not an acceptable way of “regulating” cultural practice, and “regulates” many practices out of existence entirely.

The lands of Hawai‘i have always been cared for by Nā Kānaka. If they are to flourish in future generations, they must continue to be. Cutting off that integral relationship is hewa (wrong) and must not occur.

I also oppose this bill because to me, it represents further persecution of the houseless that I find unacceptable. If people are in these areas, it is because they have nowhere to go. Many are there because they were kicked off the streets. Yes, we need solutions – solutions that are in line with Kānāwai Māmalahoe and universal Human Rights. I have attached these for reference.

Please respect and protect all customary traditions, and human rights.

Mahalo nui loa once again for the opportunity to testify before this committee.

Aloha me ka ‘oia‘i‘o,

A handwritten signature in cursive script, reading "Laulani".

Laulani Teale, MPH

Kānāwai Māmalahoe



E nā kānaka, E mālama ‘oukou i ke akua A e mālama ho‘i ke kanaka nui a me kanaka iki; E hele ka ‘elemakule, ka luahine, a me ke kama Amoe i ke ala ‘A‘ohe mea nāna e ho‘opilikia. Hewa nō, make.

—Kamehameha I

O people, Honor and care for God; Respect the rights of powerful and humble people as the same; May our aged, our women, and our children Go forth and lay upon any path or roadside Without being harmed or troubled. Disobey, and die.

http://www.capitol.hawaii.gov/hrscurrent/Vol01_Ch0001-0042F/05-Const/CONST_0009-0010.htm

PUBLIC SAFETY

Section 10. The law of the splintered paddle, mamala-hoe kanawai, decreed by Kamehameha I--Let every elderly person, woman and child lie by the roadside in safety--shall be a unique and living symbol of the State's concern for public safety.

The State shall have the power to provide for the safety of the people from crimes against persons and property. [Add Const Con 1978 and election Nov 7, 1978]

Law Journals and Reviews

Ke Kanawai Mamalahoe: Equality in Our Splintered Profession. 33 UH L. Rev. 249 (2010).

See Also: <https://www.youtube.com/watch?v=x3jSLdmgKWU>

Universal Declaration of Human Rights

Preamble

Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,

Whereas disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people,

Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law,

Whereas it is essential to promote the development of friendly relations between nations,

Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom,

Whereas Member States have pledged themselves to achieve, in co-operation with the United Nations, the promotion of universal respect for and observance of human rights and fundamental freedoms,

Whereas a common understanding of these rights and freedoms is of the greatest importance for the full realization of this pledge,

Now, Therefore THE GENERAL ASSEMBLY proclaims THIS UNIVERSAL DECLARATION OF HUMAN RIGHTS as a common standard of achievement for all peoples and all nations, to the end that every individual and every organ of society, keeping this Declaration constantly in mind, shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance, both among the peoples of Member States themselves and among the peoples of territories under their jurisdiction.

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

Everyone has the right to life, liberty and security of person.

Article 4.

No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

Everyone has the right to recognition everywhere as a person before the law.

Article 7.

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article 9.

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

- (1) Everyone has the right to own property alone as well as in association with others.
- (2) No one shall be arbitrarily deprived of his property.

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

Article 22.

Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

(1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be compulsory. Technical and professional education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

(3) Parents have a prior right to choose the kind of education that shall be given to their children.

Article 27.

(1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.

(2) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author.

Article 28.

Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

(1) Everyone has duties to the community in which alone the free and full development of his personality is possible.

(2) In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

(3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

<http://www.un.org/en/universal-declaration-human-rights/>



General Assembly

Distr.: General
2 October 2007

Sixty-first session
Agenda item 68

Resolution adopted by the General Assembly on 13 September 2007

[without reference to a Main Committee (A/61/L.67 and Add.I)]

61/295. United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Taking note of the recommendation of the Human Rights Council contained in its resolution 1/2 of 29 June 2006,¹ by which the Council adopted the text of the United Nations Declaration on the Rights of Indigenous Peoples,

Recalling its resolution 61/178 of 20 December 2006, by which it decided to defer consideration of and action on the Declaration to allow time for further consultations thereon, and also decided to conclude its consideration before the end of the sixty-first session of the General Assembly,

Adopts the United Nations Declaration on the Rights of Indigenous Peoples as contained in the annex to the present resolution.

*107th plenary meeting
13 September 2007*

Annex

United Nations Declaration on the Rights of Indigenous Peoples

The General Assembly,

Guided by the purposes and principles of the Charter of the United Nations, and good faith in the fulfilment of the obligations assumed by States in accordance with the Charter,

Affirming that indigenous peoples are equal to all other peoples, while recognizing the right of all peoples to be different, to consider themselves different, and to be respected as such,

Affirming also that all peoples contribute to the diversity and richness of civilizations and cultures, which constitute the common heritage of humankind,

¹ See *Official Records of the General Assembly, Sixty-first Session, Supplement No. 33 (A/61/33)*, part one, chap. II, sect. A.

Affirming further that all doctrines, policies and practices based on or advocating superiority of peoples or individuals on the basis of national origin or racial, religious, ethnic or cultural differences are racist, scientifically false, legally invalid, morally condemnable and socially unjust,

Reaffirming that indigenous peoples, in the exercise of their rights, should be free from discrimination of any kind,

Concerned that indigenous peoples have suffered from historic injustices as a result of, inter alia, their colonization and dispossession of their lands, territories and resources, thus preventing them from exercising, in particular, their right to development in accordance with their own needs and interests,

Recognizing the urgent need to respect and promote the inherent rights of indigenous peoples which derive from their political, economic and social structures and from their cultures, spiritual traditions, histories and philosophies, especially their rights to their lands, territories and resources,

Recognizing also the urgent need to respect and promote the rights of indigenous peoples affirmed in treaties, agreements and other constructive arrangements with States,

Welcoming the fact that indigenous peoples are organizing themselves for political, economic, social and cultural enhancement and in order to bring to an end all forms of discrimination and oppression wherever they occur,

Convinced that control by indigenous peoples over developments affecting them and their lands, territories and resources will enable them to maintain and strengthen their institutions, cultures and traditions, and to promote their development in accordance with their aspirations and needs,

Recognizing that respect for indigenous knowledge, cultures and traditional practices contributes to sustainable and equitable development and proper management of the environment,

Emphasizing the contribution of the demilitarization of the lands and territories of indigenous peoples to peace, economic and social progress and development, understanding and friendly relations among nations and peoples of the world,

Recognizing in particular the right of indigenous families and communities to retain shared responsibility for the upbringing, training, education and well-being of their children, consistent with the rights of the child,

Considering that the rights affirmed in treaties, agreements and other constructive arrangements between States and indigenous peoples are, in some situations, matters of international concern, interest, responsibility and character,

Considering also that treaties, agreements and other constructive arrangements, and the relationship they represent, are the basis for a strengthened partnership between indigenous peoples and States,

Acknowledging that the Charter of the United Nations, the International Covenant on Economic, Social and Cultural Rights¹ and the International Covenant on Civil and Political Rights,² as well as the Vienna Declaration and Programme of

¹ See resolution 2200 A (XXI), annex.

Action,³ affirm the fundamental importance of the right to self-determination of all peoples, by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

Bearing in mind that nothing in this Declaration may be used to deny any peoples their right to self-determination, exercised in conformity with international law,

Convinced that the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith,

Encouraging States to comply with and effectively implement all their obligations as they apply to indigenous peoples under international instruments, in particular those related to human rights, in consultation and cooperation with the peoples concerned,

Emphasizing that the United Nations has an important and continuing role to play in promoting and protecting the rights of indigenous peoples,

Believing that this Declaration is a further important step forward for the recognition, promotion and protection of the rights and freedoms of indigenous peoples and in the development of relevant activities of the United Nations system in this field,

Recognizing and reaffirming that indigenous individuals are entitled without discrimination to all human rights recognized in international law, and that indigenous peoples possess collective rights which are indispensable for their existence, well-being and integral development as peoples,

Recognizing that the situation of indigenous peoples varies from region to region and from country to country and that the significance of national and regional particularities and various historical and cultural backgrounds should be taken into consideration,

Solemnly proclaims the following United Nations Declaration on the Rights of Indigenous Peoples as a standard of achievement to be pursued in a spirit of partnership and mutual respect:

Article 1

Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the United Nations, the Universal Declaration of Human Rights⁴ and international human rights law.

Article 2

Indigenous peoples and individuals are free and equal to all other peoples and individuals and have the right to be free from any kind of discrimination, in the exercise of their rights, in particular that based on their indigenous origin or identity.

³ A/CONF.157/24 (Part I), chap. III.

⁴ Resolution 217 A (III).

Article 3

Indigenous peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Article 4

Indigenous peoples, in exercising their right to self-determination, have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions.

Article 5

Indigenous peoples have the right to maintain and strengthen their distinct political, legal, economic, social and cultural institutions, while retaining their right to participate fully, if they so choose, in the political, economic, social and cultural life of the State.

Article 6

Every indigenous individual has the right to a nationality.

Article 7

1. Indigenous individuals have the rights to life, physical and mental integrity, liberty and security of person.

2. Indigenous peoples have the collective right to live in freedom, peace and security as distinct peoples and shall not be subjected to any act of genocide or any other act of violence, including forcibly removing children of the group to another group.

Article 8

1. Indigenous peoples and individuals have the right not to be subjected to forced assimilation or destruction of their culture.

2. States shall provide effective mechanisms for prevention of, and redress for:

(a) Any action which has the aim or effect of depriving them of their integrity as distinct peoples, or of their cultural values or ethnic identities;

(b) Any action which has the aim or effect of dispossessing them of their lands, territories or resources;

(c) Any form of forced population transfer which has the aim or effect of violating or undermining any of their rights;

(d) Any form of forced assimilation or integration;

(e) Any form of propaganda designed to promote or incite racial or ethnic discrimination directed against them.

Article 9

Indigenous peoples and individuals have the right to belong to an indigenous community or nation, in accordance with the traditions and customs of the

community or nation concerned. No discrimination of any kind may arise from the exercise of such a right.

Article 10

Indigenous peoples shall not be forcibly removed from their lands or territories. No relocation shall take place without the free, prior and informed consent of the indigenous peoples concerned and after agreement on just and fair compensation and, where possible, with the option of return.

Article 11

1. Indigenous peoples have the right to practise and revitalize their cultural traditions and customs. This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artefacts, designs, ceremonies, technologies and visual and performing arts and literature.

2. States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs.

Article 12

1. Indigenous peoples have the right to manifest, practise, develop and teach their spiritual and religious traditions, customs and ceremonies; the right to maintain, protect, and have access in privacy to their religious and cultural sites; the right to the use and control of their ceremonial objects; and the right to the repatriation of their human remains.

2. States shall seek to enable the access and/or repatriation of ceremonial objects and human remains in their possession through fair, transparent and effective mechanisms developed in conjunction with indigenous peoples concerned.

Article 13

1. Indigenous peoples have the right to revitalize, use, develop and transmit to future generations their histories, languages, oral traditions, philosophies, writing systems and literatures, and to designate and retain their own names for communities, places and persons.

2. States shall take effective measures to ensure that this right is protected and also to ensure that indigenous peoples can understand and be understood in political, legal and administrative proceedings, where necessary through the provision of interpretation or by other appropriate means.

Article 14

1. Indigenous peoples have the right to establish and control their educational systems and institutions providing education in their own languages, in a manner appropriate to their cultural methods of teaching and learning.

2. Indigenous individuals, particularly children, have the right to all levels and forms of education of the State without discrimination.

3. States shall, in conjunction with indigenous peoples, take effective measures, in order for indigenous individuals, particularly children, including those living outside their communities, to have access, when possible, to an education in their own culture and provided in their own language.

Article 15

1. Indigenous peoples have the right to the dignity and diversity of their cultures, traditions, histories and aspirations which shall be appropriately reflected in education and public information.

2. States shall take effective measures, in consultation and cooperation with the indigenous peoples concerned, to combat prejudice and eliminate discrimination and to promote tolerance, understanding and good relations among indigenous peoples and all other segments of society.

Article 16

1. Indigenous peoples have the right to establish their own media in their own languages and to have access to all forms of non-indigenous media without discrimination.

2. States shall take effective measures to ensure that State-owned media duly reflect indigenous cultural diversity. States, without prejudice to ensuring full freedom of expression, should encourage privately owned media to adequately reflect indigenous cultural diversity.

Article 17

1. Indigenous individuals and peoples have the right to enjoy fully all rights established under applicable international and domestic labour law.

2. States shall in consultation and cooperation with indigenous peoples take specific measures to protect indigenous children from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development, taking into account their special vulnerability and the importance of education for their empowerment.

3. Indigenous individuals have the right not to be subjected to any discriminatory conditions of labour and, *inter alia*, employment or salary.

Article 18

Indigenous peoples have the right to participate in decision-making in matters which would affect their rights, through representatives chosen by themselves in accordance with their own procedures, as well as to maintain and develop their own indigenous decision-making institutions.

Article 19

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 20

1. Indigenous peoples have the right to maintain and develop their political, economic and social systems or institutions, to be secure in the enjoyment of their own means of subsistence and development, and to engage freely in all their traditional and other economic activities.
2. Indigenous peoples deprived of their means of subsistence and development are entitled to just and fair redress.

Article 21

1. Indigenous peoples have the right, without discrimination, to the improvement of their economic and social conditions, including, *inter alia*, in the areas of education, employment, vocational training and retraining, housing, sanitation, health and social security.
2. States shall take effective measures and, where appropriate, special measures to ensure continuing improvement of their economic and social conditions. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities.

Article 22

1. Particular attention shall be paid to the rights and special needs of indigenous elders, women, youth, children and persons with disabilities in the implementation of this Declaration.
2. States shall take measures, in conjunction with indigenous peoples, to ensure that indigenous women and children enjoy the full protection and guarantees against all forms of violence and discrimination.

Article 23

Indigenous peoples have the right to determine and develop priorities and strategies for exercising their right to development. In particular, indigenous peoples have the right to be actively involved in developing and determining health, housing and other economic and social programmes affecting them and, as far as possible, to administer such programmes through their own institutions.

Article 24

1. Indigenous peoples have the right to their traditional medicines and to maintain their health practices, including the conservation of their vital medicinal plants, animals and minerals. Indigenous individuals also have the right to access, without any discrimination, to all social and health services.
2. Indigenous individuals have an equal right to the enjoyment of the highest attainable standard of physical and mental health. States shall take the necessary steps with a view to achieving progressively the full realization of this right.

Article 25

Indigenous peoples have the right to maintain and strengthen their distinctive spiritual relationship with their traditionally owned or otherwise occupied and used lands, territories, waters and coastal seas and other resources and to uphold their responsibilities to future generations in this regard.

Article 26

1. Indigenous peoples have the right to the lands, territories and resources which they have traditionally owned, occupied or otherwise used or acquired.

2. Indigenous peoples have the right to own, use, develop and control the lands, territories and resources that they possess by reason of traditional ownership or other traditional occupation or use, as well as those which they have otherwise acquired.

3. States shall give legal recognition and protection to these lands, territories and resources. Such recognition shall be conducted with due respect to the customs, traditions and land tenure systems of the indigenous peoples concerned.

Article 27

States shall establish and implement, in conjunction with indigenous peoples concerned, a fair, independent, impartial, open and transparent process, giving due recognition to indigenous peoples' laws, traditions, customs and land tenure systems, to recognize and adjudicate the rights of indigenous peoples pertaining to their lands, territories and resources, including those which were traditionally owned or otherwise occupied or used. Indigenous peoples shall have the right to participate in this process.

Article 28

1. Indigenous peoples have the right to redress, by means that can include restitution or, when this is not possible, just, fair and equitable compensation, for the lands, territories and resources which they have traditionally owned or otherwise occupied or used, and which have been confiscated, taken, occupied, used or damaged without their free, prior and informed consent.

2. Unless otherwise freely agreed upon by the peoples concerned, compensation shall take the form of lands, territories and resources equal in quality, size and legal status or of monetary compensation or other appropriate redress.

Article 29

1. Indigenous peoples have the right to the conservation and protection of the environment and the productive capacity of their lands or territories and resources. States shall establish and implement assistance programmes for indigenous peoples for such conservation and protection, without discrimination.

2. States shall take effective measures to ensure that no storage or disposal of hazardous materials shall take place in the lands or territories of indigenous peoples without their free, prior and informed consent.

3. States shall also take effective measures to ensure, as needed, that programmes for monitoring, maintaining and restoring the health of indigenous peoples, as developed and implemented by the peoples affected by such materials, are duly implemented.

Article 30

1. Military activities shall not take place in the lands or territories of indigenous peoples, unless justified by a relevant public interest or otherwise freely agreed with or requested by the indigenous peoples concerned.

2. States shall undertake effective consultations with the indigenous peoples concerned, through appropriate procedures and in particular through their representative institutions, prior to using their lands or territories for military activities.

Article 31

1. Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge, and traditional cultural expressions.

2. In conjunction with indigenous peoples, States shall take effective measures to recognize and protect the exercise of these rights.

Article 32

1. Indigenous peoples have the right to determine and develop priorities and strategies for the development or use of their lands or territories and other resources.

2. States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

3. States shall provide effective mechanisms for just and fair redress for any such activities, and appropriate measures shall be taken to mitigate adverse environmental, economic, social, cultural or spiritual impact.

Article 33

1. Indigenous peoples have the right to determine their own identity or membership in accordance with their customs and traditions. This does not impair the right of indigenous individuals to obtain citizenship of the States in which they live.

2. Indigenous peoples have the right to determine the structures and to select the membership of their institutions in accordance with their own procedures.

Article 34

Indigenous peoples have the right to promote, develop and maintain their institutional structures and their distinctive customs, spirituality, traditions, procedures, practices and, in the cases where they exist, juridical systems or customs, in accordance with international human rights standards.

Article 35

Indigenous peoples have the right to determine the responsibilities of individuals to their communities.

Article 36

1. Indigenous peoples, in particular those divided by international borders, have the right to maintain and develop contacts, relations and cooperation, including activities for spiritual, cultural, political, economic and social purposes, with their own members as well as other peoples across borders.

2. States, in consultation and cooperation with indigenous peoples, shall take effective measures to facilitate the exercise and ensure the implementation of this right.

Article 37

1. Indigenous peoples have the right to the recognition, observance and enforcement of treaties, agreements and other constructive arrangements concluded with States or their successors and to have States honour and respect such treaties, agreements and other constructive arrangements.

2. Nothing in this Declaration may be interpreted as diminishing or eliminating the rights of indigenous peoples contained in treaties, agreements and other constructive arrangements.

Article 38

States in consultation and cooperation with indigenous peoples, shall take the appropriate measures, including legislative measures, to achieve the ends of this Declaration.

Article 39

Indigenous peoples have the right to have access to financial and technical assistance from States and through international cooperation, for the enjoyment of the rights contained in this Declaration.

Article 40

Indigenous peoples have the right to access to and prompt decision through just and fair procedures for the resolution of conflicts and disputes with States or other parties, as well as to effective remedies for all infringements of their individual and collective rights. Such a decision shall give due consideration to the customs, traditions, rules and legal systems of the indigenous peoples concerned and international human rights.

Article 41

The organs and specialized agencies of the United Nations system and other intergovernmental organizations shall contribute to the full realization of the provisions of this Declaration through the mobilization, *inter alia*, of financial cooperation and technical assistance. Ways and means of ensuring participation of indigenous peoples on issues affecting them shall be established.

Article 42

The United Nations, its bodies, including the Permanent Forum on Indigenous Issues, and specialized agencies, including at the country level, and States shall promote respect for and full application of the provisions of this Declaration and follow up the effectiveness of this Declaration.

Article 43

The rights recognized herein constitute the minimum standards for the survival, dignity and well-being of the indigenous peoples of the world.

Article 44

All the rights and freedoms recognized herein are equally guaranteed to male and female indigenous individuals.

Article 45

Nothing in this Declaration may be construed as diminishing or extinguishing the rights indigenous peoples have now or may acquire in the future.

Article 46

1. Nothing in this Declaration may be interpreted as implying for any State, people, group or person any right to engage in any activity or to perform any act contrary to the Charter of the United Nations or construed as authorizing or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent States.

2. In the exercise of the rights enunciated in the present Declaration, human rights and fundamental freedoms of all shall be respected. The exercise of the rights set forth in this Declaration shall be subject only to such limitations as are determined by law and in accordance with international human rights obligations. Any such limitations shall be non-discriminatory and strictly necessary solely for the purpose of securing due recognition and respect for the rights and freedoms of others and for meeting the just and most compelling requirements of a democratic society.

3. The provisions set forth in this Declaration shall be interpreted in accordance with the principles of justice, democracy, respect for human rights, equality, non-discrimination, good governance and good faith.