

Royal Commission of Inquiry: Investigating War Crimes in the Hawaiian Islands

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The [Royal Commission of Inquiry](#) (RCI) was established by [Proclamation](#) of the [Hawaiian Kingdom Council of Regency](#) on June 17, 2019, yet there has been no coverage in either the mainstream media or the alternative media. Most people are simply not aware that the Hawaiian Islands have been under a prolonged and illegal occupation by the United States since January 17, 1893.

What is the RCI, its mandate and its investigative authority? This brief article will attempt to answer these questions and, consequently, bring a broader awareness of the American occupation.

A simple Google search of [Larsen v. Hawaiian Kingdom](#) will reveal that the [Permanent Court of Arbitration](#) (PCA) in The Hague, Netherlands, acknowledged the Hawaiian Kingdom to be a State or country and its government is the Council of Regency. This continued existence of the Hawaiian Kingdom as a country was not affected by the illegality or duration of the American occupation. The PCA was established in 1899 by the United States and other countries to resolve international disputes.

In 1999, arbitration proceedings were initiated at the PCA between a Hawaiian national and the government of the Hawaiian Kingdom—the Council of Regency. The dispute centered on the unlawful imposition of American laws over the territory of the Hawaiian Kingdom. At the PCA's website, it states:

Lance Paul Larsen, a resident of Hawaii, brought a claim against the Hawaiian Kingdom by its Council of Regency ("Hawaiian Kingdom") on the grounds that the Government of the Hawaiian Kingdom is in continual violation of: (a) its 1849 Treaty of Friendship, Commerce and Navigation with the United States of America, as well as the principles of international law laid down in the Vienna Convention on the Law of Treaties, 1969 and (b) the principles of international comity, for allowing the unlawful imposition of American municipal laws over

the claimant's person within the territorial jurisdiction of the Hawaiian Kingdom.

Larsen was not able to maintain his lawsuit without the participation of the United States, despite being formally invited by the parties, because it was the United States that caused the injury to him and not the Council of Regency. He was claiming the Council of Regency was liable for the injury by allowing the imposition of American laws, which the Council rejected. Consequently, the United States was a necessary third party.



Source: freehawaii.blogspot.com

However, for the Council of Regency, the significance of this case is the PCA's acknowledgment of the Hawaiian Kingdom's continued existence as a State before the arbitral tribunal was established. Before the PCA could form the arbitral tribunal to resolve the international dispute, Article 47 of the [1907 PCA Convention](#) required that one of the parties had to be a State. The proceedings were initiated on November 8, 1999, and the arbitral tribunal was formed on June 9, 2000, which is after the PCA verified the Hawaiian Kingdom to be an existing State.

The United States, which is a [contracting State](#) to the 1907 PCA Convention and a member State of the PCA [Administrative Council](#), did not object to these proceedings and even entered into an [agreement](#) with Larsen and the Council of Regency to have access to all records and pleadings of the case. This agreement was brokered by Phyllis Hamilton, Deputy Secretary General of the PCA, between the parties and the American Embassy in The Hague. For more information on this case, download the article "[Backstory—Larsen v. Hawaiian Kingdom at the Permanent Court of Arbitration \(1999-2001\)](#)."

In 2005, the United Nations at its World Summit [adopted](#) the principle of the Responsibility to Protect (R2P) its populations from genocide, war crimes, crimes against humanity and ethnic cleansing. In 2009, the General Assembly [reaffirmed](#) the principle, and in 2021, the General Assembly passed a [resolution](#) on "The responsibility to protect and the prevention

of genocide, war crimes, ethnic cleansing and crimes against humanity.”

According to the International Committee of the Red Cross [Study on Customary International Humanitarian Law](#), Rule 158 specifies that “States must investigate war crimes allegedly committed by their nationals or armed forces, or on their territory, and, if appropriate, prosecute the suspects. They must also investigate other war crimes over which they have jurisdiction and, if appropriate, prosecute the suspects.” This “rule that States must investigate war crimes and prosecute the suspects is set forth in numerous military manuals, with respect to grave breaches, but also more broadly with respect to war crimes in general.”



Picture of Queen Lili'uokalani, Hawai'i's last queen, who was overthrown in a U.S. invasion on January 17, 1893. [Source: Hawai'i Archives]

While Larsen was not able to maintain his suit against the Council of Regency, it did bring to the attention of the international community the war crime of usurpation of sovereignty during military occupation. *Usurpation of sovereignty during military occupation* is the imposition of the laws and administrative policies of the Occupying State over the territory of the Occupied State. It was declared to be a war crime in the aftermath of the First World War by the [Commission on Responsibilities](#) in its 1919 report, to which the United States was a party.

In the annex of its 1919 report, the Commission charged that in Romania the German authorities had instituted German civil courts to try disputes between subjects of the Central Powers or between a subject of these powers and a Romanian, a neutral, or subjects of Germany's enemies." In Serbia, the Bulgarian authorities had "Proclaimed that the Serbian State no longer existed, and that Serbian territory had become Bulgarian."

It listed several other war crimes committed by Bulgaria in occupied Serbia: "Serbian law, courts and administration ousted"; "Taxes collected under Bulgarian fiscal regime"; "Serbian currency suppressed"; "Public property removed or destroyed, including books, archives and MSS (e.g., from the National Library, the University Library, Serbian Legation at Sofia, French Consulate at Uskub)." It also charged that the German and Austrian authorities had committed several war crimes in Serbia: "The Austrians suspended many Serbian laws and substituted their own, especially in penal matters, in procedure, judicial organization, etc."

The war crime of *usurpation of sovereignty during military occupation* was referred to by Judge Blair of the American Military Commission in a separate opinion in the [Justice Case](#), that "This rule is incident to military occupation and was clearly intended to protect the inhabitants of any occupied territory against the unnecessary exercise of sovereignty by a military occupant." Australia, Netherlands and China enacted laws making *usurpation of sovereignty during military occupation* a war crime. In the case of Australia, the Parliament enacted the Australian War Crimes Act in 1945 that included the war crime of *usurpation of sovereignty during military occupation*.

This war crime is also considered particular customary international law and binding on the Allied Powers of the First World War, whether they enacted a domestic law or not. The [Treaty of Versailles](#) listed these countries, which include the United States of America, Great Britain, France, Italy and Japan, principal Allied Powers and Associated Powers that include Australia, Belgium, Bolivia, Brazil, Canada, China, Cuba, Czechoslovakia, now known as Czech Republic, Ecuador, Greece, Guatemala, Haiti, Honduras, Liberia, New Zealand, Nicaragua, Panama, Peru, Poland, Portugal, Romania, South Africa, Thailand, and Uruguay.

In the Hawaiian situation, usurpation of sovereignty during military occupation serves as a source for the commission of other war crimes within the territory of the Hawaiian Kingdom, which includes the war crimes of *compulsory enlistment, denationalization, pillage, destruction of property, deprivation of fair and regular trial, deporting civilians of the occupied territory, and transferring populations into an occupied territory*. The reasoning for the prohibition of imposing extraterritorial prescriptions or measures of the occupying State is addressed by Professor Eyal Benvenisti:

The occupant may not surpass its limits under international law through extraterritorial prescriptions emanating from its national institutions: the legislature, government, and courts. The reason for this rule is, of course, the functional symmetry, with respect to the occupied territory, among the various lawmaking authorities of the occupying state. Without this symmetry, Article 43 could become meaningless as a constraint upon the occupant, since the occupation administration would then choose to operate through extraterritorial prescription of its national institutions.

On March 22, 2022, the United Nations Human Rights Council (HRC) was made aware that the war crime of usurpation of sovereignty was and continues to be committed by the United States over the territory of the Hawaiian Kingdom, when the author, on behalf of the [International Association of Democratic Lawyers](#) and the [American Association of Jurists](#) both of which are NGOs with observer status to the HRC, delivered an oral statement.

The RCI was established in similar fashion to the United States proposal of establishing a Commission of Inquiry after the First World War “to consider generally the relative culpability of the authors of the war and also the question of their culpability as to the violations of the laws and customs of war committed during its course.”

In accordance with Hawaiian administrative precedence in addressing crises, the RCI was established by “virtue of the prerogative of the Crown provisionally vested in [the Council of Regency] in accordance with Article 33 of the 1864 Constitution, and to ensure a full and thorough investigation into the violations of international humanitarian law and human rights within the territorial jurisdiction of the Hawaiian Kingdom.” The author has been designated as Head of the Royal Commission, and Dr. Federico Lenzerini, Ph.D., as Deputy Head. Pursuant to Article 3—*Composition of the Royal Commission*, the Head of the Royal Commission has been authorized to seek “recognized experts in various fields.”

The RCI acquired legal opinions from the following experts in international law: on the subject of the continuity of the Hawaiian Kingdom under international law, Professor Matthew Craven from the University of London, SOAS, School of Law; on the subject of the elements of war crimes committed in the Hawaiian Kingdom since 1893, Professor William Schabas, Middlesex University London, School of Law; and on the subject of human rights violations in the Hawaiian Kingdom and the right of self-determination by the Hawaiian citizenry, Professor Federico Lenzerini, University of Siena, Italy, Department of Political and International Studies.

These experts, to include the Head of the Royal Commission, are the authors of chapters 1, 2, 3, 4 and 5 of Part II of the Royal Commission’s eBook—[The Royal Commission of Inquiry: Investigating War Crimes and Human Rights Violations Committed in the Hawaiian Kingdom](#).

According to Article 1(2) of the proclamation, “The purpose of the Royal Commission shall be to investigate the consequences of the United States’ belligerent occupation, including with regard to international law, humanitarian law and human rights, and the allegations of war crimes committed in that context. The geographical scope and time span of the investigation will be sufficiently broad and be determined by the head of the Royal Commission.”

The Royal Commission began by providing *Preliminary Reports* on various subjects relative to its mandate and its investigation of war crimes that meet the constituent elements

of *mens rea*—criminal intent, and *actus reus*—the act or acts of committing the crime.

In mid-November of 2022, the RCI published its initial criminal and war criminal reports no. [22-0001](#), [22-0002](#), [22-0002-1](#), [22-0003](#), [22-0003-1](#), [22-0004](#), [22-0004-1](#), [22-0005](#), [22-0005-1](#), [22-0006](#), [22-0006-1](#), [22-0007](#), [22-0007-1](#), [22-0008](#) and [22-0009](#).

These reports identified senior leadership of the United States, the State of Hawai'i, and its Counties, which include President Joseph Biden and State of Hawai'i Governor David Ige, to be guilty of committing the war crimes of usurpation of sovereignty during military occupation, deprivation of fair and regular trial, and pillage. The RCI criminal reports provide the necessary evidence for the issuance of arrest warrants and prosecution by foreign countries.

Usurpation of sovereignty has not only victimized the civilian population in the Hawaiian Islands for more than a century, but it has also victimized the civilians of other countries that have visited the islands since 1898 who were unlawfully subjected to American municipal laws and administrative measures. These include State of Hawai'i sales tax on goods purchased in the islands but also taxes placed exclusively on tourists' accommodations collected by the State of Hawai'i and the Counties.

The Counties have recently added 3% surcharges to the State of Hawai'i's 10.25% [transient accommodations tax](#). Added with the [State of Hawai'i's general excise tax](#) of 4% in addition to the 0.5% [County general excise tax surcharges](#), civilians who are visiting the islands will be paying a total of 17.75% to the occupying power. In addition, those civilians of foreign countries doing business in the Hawaiian Islands are also subjected to paying American duties on goods that are imported to the United States destined to Hawai'i. These duty rates are collected by the United States according to the [United States Tariff Act of 1930](#), as amended, and the [Trade Agreements Act of 1979](#).

The far reach of the victims of war crimes committed in the Hawaiian Islands includes civilians throughout the world in various countries.

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