

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

Shadow Report in regard to the United States implementation Report

Submitted to the Human Rights Committee
March 2006

Submitted by

Indigenous Peoples and Nations Coalition *

Coverpage	1
Executive Summary	2
I. Introduction	3
II. Charter of the United Nations	9
III. International obligations – Constitutional and Federal Indian Law	15
IV. The Legitimacy of the Right to Resist Colonialism	21
V. The Referendum	22
VI. Conclusions and Recommendations	26
VII. Annex	28

- 1) How is the United States planning to address in good faith the unresolved obligations under Article 1 and related Articles of the International Covenant on Civil and Political Rights that are directly related to, *inter alia*, Article 1, 2, 55, 56, 73 and 74 of the Charter of the United Nations and international law to rectify the violations regarding General Assembly resolution 1469 of 12 December 1959 for the situation of Alaska and Hawaii?
- 2) Can the United States provide a report to indicate that you will involve the proper agents and authorities in Alaska and Hawaii to address the right of self-determination and non-discrimination?
- 3) What initial steps will you take to address these violations?

* The Indigenous Peoples and Nations Coalition (IPNC) presents this Shadow Report in support of the Alaska Inter-Tribal Council pursuant to Resolution 2005-10 adopted on 7 December 2005. IPNC is a grassroots Indigenous Organization that was accredited to the World Conference Against Racism. IPNC utilizes Indigenous World Association (a Consultative II Non-Governmental Organization accredited to ECOSOC) to raise awareness of the human rights violations in Alaska and Hawaii at the United Nations. This is prepared under the direction of the Traditional Chair of the Indigenous Peoples and Nations Coalition: Ambassador Ronald Barnes. The Na Koi Ikaika O Ka Lahui Hawaii is signed on to this document.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

Executive Summary

The United States of America is not the sovereign in Alaska and Hawaii. The United States of America denied the right of self-determination to the Alaska Native Nations and the Kingdom of Hawaii when it breached the "sacred trust" obligation to uphold their sovereignty in crass disregard for their "protection against abuses" in violation of the *Declaration of Non-Self-Governing Territories*, the Charter of the United Nations, international human rights law and international law. The United States presented false and misleading information that omitted the true history and international legal status of the Kingdom of Hawaii and the Alaska Native Nations by concealing their status and expressly excluding their right to consent to annexation in events that lead to General Assembly resolution 1469 on 12 of December 1959. The puppet governments and institutions erected by the United States collaborated with American citizens to develop a colonial racist regime of apartheid in Alaska, who then consented in complicity with the United States military in the referendums to annex the Territories of Alaska and Hawaii.

In addressing international obligations, Ian Brownlie states "**A state cannot plead provisions of its own law or deficiencies in that law in answer to a claim against it for an alleged breach of its obligations under international law.**" The United States of America breached its international obligations by unilaterally incorporating and annexing the already recognized *Foreign Nations* by applying domestic Federal Indian Law.

The United States of America applied Federal Indian Law to the Alaska Native Nations when it imported the *Johnson v. McIntosh* (8 Wheat. 543 (1823)) via the *1955 Tee-Hit-Ton v United States of America* (348 U.S. 272). The *Johnson v McIntosh* case coined 'aboriginal title' and placed Indian Nations under dependent domestic law. To paraphrase the argument and justification for deviating from the Constitution of the United States of America, the Marshal Court opined that: The Creator has granted the rights of discovery and conquest to the great civilized nations of Europe for whom the superior genius of Europe might claim an ascendancy against the savages and heathens who must trade their land and sovereignty for the Christian religion. The Tee-Hit-Ton case was rendered with the assistance of United States Supreme Court Justice Hugo Black, who was sworn into the Ku Klux Klan and swore to uphold white supremacy till the day he died. The state of Alaska was a Territory designated to the white race in footnote 18 of the decision: "**The acquisition of the Philippines was not like the settlement of the white race in the United States. Whatever consideration may have been shown to the North American Indians, the dominant purpose of the whites in America was to occupy the land**". Thus the United States justified the reduction of the *absolute title* and dominion of the soil in Alaska from that of a Foreign Nation to *aboriginal title* under domestic Federal Indian Law. In the United Nations paper E/CN.4/Sub.2/2001/21 entitled *Indigenous Peoples and their relationship to land*, the Special Rapporteur Mrs. Erica-Irene A. Daes, portrays the extremely racial character of the case in paragraphs 41 to 44 of the report. The Special Rapporteur also reported that the Indigenous Peoples of Alaska did not consent to the any legislation imposed by the United States Congress. Abrogate this.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

I. Introduction

The United States of America is in violation of common Article 1 of the International Covenant on Civil and Political Rights and related instruments, the Charter of the United Nations and international law¹ as they apply to the principles of self-determination in the Non-Self-Governing Territories of Alaska and Hawaii.

A. United States of America misled the United Nations with GA 1469

On the 12 of December 1959 the United Nations adopted General Assembly resolution 1469 (See Annex Exhibit 1.1) removing Alaska and Hawaii from Article 73 of the Charter of the United Nations, the list of Non-Self-Governing Territories. The United States originally listed Alaska and Hawaii in General Assembly resolution 66 (I) on 14 December 1946. GA 1469 expressed 1) “the *opinion* of the Government of the United States of America that, owing to the new constitutional status of Alaska and Hawaii, it is no longer appropriate or necessary for it to transmit information under Article 73 e of the Charter”; and 2) expressed the opinion that “the people of Alaska and Hawaii have effectively exercised their right to self-determination and have freely chosen their present status”; and 3) “that Chapter XI of the Charter can no longer be applied to Alaska and Hawaii” and 4) “Considers it appropriate that the transmission of information in respect of Alaska and Hawaii under Article 73 e of the Charter should cease.”

Professor S. Hasan Ahmad observes in his book The United Nations and the Colonies that there were serious deficiencies in GA 1469 and that the removal of Alaska and Hawaii from their obligations of Article 73e was unilateral. On page 229 he state that, “The anomalous situation relating to cessation of information persisted during the Fourteenth and Fifteenth Sessions, as the cases of the unilateral cessation of information regarding...France and Alaska and Hawaii by the United States exhibited.” Professor Hasan makes three specific points: 1) the situations were *not examined* in sufficient detail 2) the peoples were not granted the right to petition the United Nations and 3) the agencies responsible for examination did not study the change in the political condition and the status in the territories.

¹ The preambular paragraphs of the Covenant recognizes and considers the application of the Charter of the United Nations, its purposes and principles and their application to the all members of the human family to the rights recognized in the Covenant. Further, Article 46 of the Covenant states that “Nothing in the present Covenant shall be interpreted as impairing the provisions of the Charter of the United Nations...in regard to the matters dealt with in the present Covenant”. In this context, it is the intent to invoke the full scope of Article 1 in relation to the *Non-Self-Governing Territories* in its application to the right to self-determination and international law in this shadow report. This includes; *inter alia*, Articles 1, 2, 55, 56, 73, and 74 of the Charter to cover the pertinent international law necessary address the violations of GA resolution 1469.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

B. International Legal Status of Hawaii and Alaska

The United States of America mislead the General Assembly of the United Nations by not disclosing the historical facts and original independent status of the already recognized Kingdom of Hawaii and Alaska Native Nations. The United States historically recognized that both Nations as independent under the Law of Nations². Note the following:

1. The Kingdom of Hawaii enjoyed full political recognition as an independent State with several international treaties with many States of the world, including a Treaty of Friendship³ with the United States of America under the Law of Nations and international law. The Kingdom of Hawaii was illegally overthrown in 1893 without a Declaration of War from the United States Congress, and the President of the United States, a clear violation of the Constitution of the United States of America. The Hawaiian Kingdom never ceded its sovereignty.
2. The Alaska Native Nations on the Northwest coast of North America (Alaska at the time, hereafter called Alaska) held international discourse and trade with Tsarist Russia, the United States of America and many European Nations in the first half of the 19th century. In the famous Ukase of 1821 (See Annex: Exhibit 2) Alexander I of Tsarist Russia attempted to claim Alaska declaring that the United States merchants can no longer trade directly with the Alaska Native Nations; United States merchants must now trade through the established forts and settlements. In response to the claim, Secretary of State John Quincy Adams on behalf of United States President James Monroe declared in diplomatic communications that this Territory was not part of the Russian Empire and asserted that the Natives were 'independent tribes inhabiting an independent territory'⁴. These diplomatic communications gave full citations under the Law of

² E/CN.4/NGO/339

³ Treaty signed at Washington December 20, 1849
Senate advice and consent to ratification January 14, 1850
Ratified by the President of the United States February 4, 1850
Ratified by the Hawaiian Islands August 19, 1850
Ratifications exchanged at Honolulu August 24, 1850
Entered into force August 24, 1850

This is an example of only one of the four Treaties with the United States of America.

⁴ Senate Document Number 384 of the 18th Congress, 2d Session, 1824 from the diplomatic communication entitled Confidential Memorial; The following are excerpts from the diplomatic communications from United States Secretary of State Johan Quincy Adams: From these facts, incontestably proved by historical documents, an irresistible conclusion follows, which agrees with the declaration of Russia, in 1790; and it ought to appear definitive that she had no right to claim, either under the title of discovery or of possession, on the continent east or south of Behring's Strait, about the 60th degree north latitude. *** The conclusion which must necessarily result from these facts does not appear to establish that the territory in question has been legitimately incorporated with

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

Nations as to why Tsarist Russia did not acquire the Alaska region. The United States asserted that the Alaska Native Nations essentially possess the title and dominion with full sovereignty and independence as any European Nations under the Law of Nations. The criteria to test whether or not any European nation, including Tsarist Russia, could acquire the territory of the Alaska region was based on the Law of Nations; this placed the sovereignty of the Alaska Native Nations on equal footing as any European Nation. The United States asserted this to protect their right to trade directly with the Alaska Native Nations. The independent nations of the Alaska region enjoyed international discourse and trade with other European Nations without the interdiction of Tsarist Russia.

The United States claims it can acquire territory by treaty or by conquest. There is no valid treaty or conquest to justify annexation of either Territory. The US Congress did not "declare war" as required in Article 1, Section 8, Clause 10⁵ against Hawaii or Alaska, thus the invasion and actions "concerning Captures on Land and Water" are illegal.

C. Use of Puppet Governments and Manufactured Consent

To understand the delict nature of the United States of America in its effort to gain approval from the United Nations to cede reporting on Alaska and Hawaii under Article 73 of the Charter, one must review the legal character of puppet governments determined in the Judgment No. 107 of the Greek Criminal Court of Heraklion in Crete, of 1945 as referred to in the Digest of International Law by Donald Whitman; he quotes the court:

"...it is clear that the Governments set up in Greece at the end of the military occupation of this country by the German and Italian armies are not based on the popular verdict or on nomination by the Head of State, who had fled with his Government out of the country. *** On the contrary, these Governments are based on the consent and the military power of the invader, from whose will they derive their power, which could be exercised only-an essential condition of such exercise-within the limits of the military interest and the political objects of the occupant. In consequence, these Governments cannot even be regarded as *de facto* Governments. Actually, they constitute mere organs of the occupant...."

the Russian empire. *** That on the supposition that the natives of the country should be found under the jurisdiction of Russia, the United States would have only to abandon their merchants to the penalties incurred by those who carry on a contraband trade in a foreign jurisdiction; that if, on the contrary, the natives ought to be regarded as independent tribes, Russia could not prohibit foreigners from trading with them unless in contraband of war and in time of war; in which case she can herself put in execution the prohibition on the open sea.

⁵ Article 1, Section 8, Clause 11 To declare War, grant Letters of Marque and Reprisal, and make Rules concerning Captures on Land and Water;

Indigenous Peoples and Nations Coalition Human Rights Committee Shadow Report

The "mere organs of the occupant" were the military and American institutions organized in Alaska and Hawaii to create the 49th and 50th states respectively. The U.S. stationed a large number of military outposts during the cold war, who with their families were a very large sector of the voting population to annex Alaska and Hawaii. These Military and Americans citizens in the Foreign Territories of Alaska and Hawaii were the driving force to fulfill the political objectives of the United States. The territorial Governments aided in constructing the constitutions and implementing referendums that specifically excluded information pursuant to their status as Non-Self-Governing Territories under Article 73 of the United Nations Charter. The United States did not disseminate any information pertaining to the international legal status nor informed anyone that this status was being diminished as a result of the referendum in Alaska or Hawaii. The only option presented to voters in the referendum was whether or not Alaska and Hawaii were to become states of the Union of the United States of America (See **Section V - The Referendum**). Nothing was presented about the rights of the subjects of the Alaska Native Nations and the Kingdom of Hawaii.

The United States engineered puppet institutions in Alaska and Hawaii repugnant to Article I of the Covenant and Article 73 of the Charter. The Federal Government further reduced the status of the Alaska Native Nations and the Kingdom of Hawaii from Foreign Nations to dependent domestic puppet organizations below that status of even domestic politically recognized Indian Nations, the United States burned all possible application of "sacred trust obligation" and "protection against abuses" under Article 73 of the Charter thereby subjugating, dominating and exploiting these Nations below the "legal no-mans land" status of Federal Indian Law referred to in Section III of this document.

The Alaska Federation of Natives was organized as a limited liability non-profit corporation under the state of Alaska; its formation resulted in the 1971 Alaska Native Claims Settlement Act (ANCSA), legislation engineered by the United States Congress. When this unilateral legislation was passed, the subjects of the Alaska Native Nations knew nothing about the international legal status of Alaska and their rights. The United States allowed for the non-profit corporations such as the Alaska Federation of Natives (AFN) to produce a settlement under domestic "Federal Indian Law". In the beginning, the Alaska Natives involved were innocent participants; they knew nothing of their rights under international law. Even with their limited understanding today, many are afraid that the character of the American people and their American system of justice will not allow for restoration and redress. The vast oil riches and the geographic importance of Alaska converted the puppet institutions into convenient collaborators to implement this repugnant domestic legislation that is being used as a model for settling issues in Hawaii. According to the 1982 Alaska Statehood Commission Report by Robert Price, the Alaska Native Claims Settlement Act (ANCSA) can no longer be considered a Native claims settlement; it was the result of the oil crunch in the 70's and a claims act for everyone. This report compared the status of the Alaska Native Nations as similar to the Philippines.

Similarly, Hawaii has organizations that are attempting to act as the sole voice to settle claims similar to the Alaska Native Claims Settlement Act for the Kanaka Maoli

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

Hawaiians. The Office of Hawaiian Affairs (OHA) under the state of Hawaii was assembled as yet another non-profit corporation that legally serves the status quo under the auspices of purely domesticated interests. The United States has enacted law or policy against Alaska Natives and Native Hawaiians to make it virtually impossible for the proper agents and authorities to pursue their claims for redress. The threats and power of the United States must become an issue itself to break down the stronghold of impunity that is based in their reservations and declarations for the ICCPR and by their general disdain for their obligations under international law. In order to be substantively heard in their courts, you have to essentially be one of the "puppet machinery" to be recognized; even then, only certain individuals or groups who have already compromised and are "recognized" have standing in their kangaroo courts. The United States *molested* the Alaska Native Nations and the Kingdom of Hawaii by placing us below the discriminating Federal Indian Law with the aim to totally annihilate the sovereign and independent status of the peoples of Alaska and Hawaii. To elaborate more on the affect of puppet governments, Donald Whitman continues on puppet agreements:

"With regard to puppet governments, their first and most prominent feature is that they are in no way related to the legal order of the occupied State; in other words, they are neither its governments, nor its organs of any sort, and they do not carry on its continuity. It follows that any confusion between a puppet government and a *de facto* government of the occupied State is as inadmissible as confusion between the occupying power itself and a *de facto* government. *** "On the contrary, puppet governments are organs of the occupant and, as such, form part of his legal order. The agreements concluded by them with the occupant are not genuine international agreements, however correct in form; failing a genuine contracting party, such agreements are merely decrees of the occupant disguised as agreements which the occupant in fact concludes with himself. Their measures and laws are those of the occupant. This determines the question of international responsibility for the acts of the puppet government. It is not the occupied State which is in any way responsible for the acts of the puppet government, or organs of a puppet State created in its territory; it is solely the occupying power. (*Digest of International Law*, Volume 2, by Donald Whitman, page 765-68 (1963))

D. Diplomatic Protest Against Wrongful Acts and Denial of Justice

Upon discovering their actual international status, the subjects of the Alaska Native Nations and the Kingdom of Hawaii began resisting and protesting the invasion in their respective Territories to preserve their international status. This includes several diplomatic protests that were lodged at the Commission on Human Rights against the United States of America for the illegal annexation and for the subjugation, domination and exploitation of Alaska and Hawaii. (See Annex: Exhibits 3.1 and 3.2 for diplomatic protests) The protests call for full restoration of our international status, including the right to the territory and resources. Further, we assert that there is no prescription for the independently recognized Kingdom of Hawaii and Alaska Native

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

Nations. Oppenheim states that, "As long as other States keep up protests and claims, the actual exercise of sovereignty is not undisturbed, nor is there the required general conviction that the present condition of things is in conformity with international order⁶."

The United States of America and its political sub-division state of Alaska denied justice when it refused to resolve the dispute regarding the international legal status of the subjects of the Alaska Native Nations in 1999 to 2000 when it refused to enforce an unjust law to tax property of a fishing boat or to allow the issue to be resolved in their courts. An example of the documentation history of this is in **Exhibit 4**. This action to deny taxing authority to the state of Alaska by claiming that United States had not acquired the Territory of Alaska nor the authority to govern was presented to the City of Dillingham, Alaska. This action fully contested the right and authority of the United States of America and its political sub-divisions to exercise control over the Foreign Property of a subject of the Alaska Native Nations and diplomatic agent. The City of Dillingham, the state of Alaska and the United States of America, in full knowledge of the issues, refused to hear this case in their courts thereby denying justice to resolve the issue. Presently the state of Alaska, under Senate Bill 112, is attempting to tax the Foreign Property of the Alaska Native Nations, ignoring the attempts to resolve our status.

Another example of injustice is the attempt to take property in the Tenekee Springs under the auspices of domestic state law, under the claim that the Alaska Native Claims Settlement Act (ANCSA) settled the claims of Alaska Natives. ANCSA is a violation of our right to self-determination under international law. Under the pretense of the 1867 Treaty of Cession the United States created a national park: the Tongass National Forest. President Franklin D. Roosevelt issued Executive Order No. 7179 on September 6, 1935 (**See Exhibit 5**) to protect the Indian Settlement of the Tenakee Nation, basically recognizing the right of the Indian Nation to the property, doing so under domestic law. The United States assumes that the fraudulent ANCSA settled the property rights pretending that our status is domestic "aboriginal title", and fending the issue off to Sea Alaska – one of the 13 regional corporations under ANCSA. The Tenakee Nation remains one of the five "Landless" Tribes who were never given the opportunity to settle under the ANCSA, as derelict as it is. Our right to redress is as the property of a Foreign Nation under international law, not slaves under the white racist regime – state of Alaska.

The United States of America continues to usurp the sovereign authority of the proper agents and authorities of Alaska and Hawaii by evading, misleading and ignoring the already agreed to decolonization obligations proscribed in the Charter of the United Nations and international law. The grassroots efforts to raise awareness of the international status in Alaska is resulting in a backlash by the United States, its political sub-divisions and puppet institutions such as the ANCSA corporations, the Alaska Federation of Natives and other cohorts that are attempting to concoct a false impression that we are satisfied with the unilateral arrangement. The US rewards collaborators to

⁶ International Law A Treatise by L. Oppenheim, Vol. I, Eighth Edition, 1955 (Longmans, Green and Co.), § 243

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

maintain the violation of our human rights by maintaining the status quo. Denial of justice is commonplace, as mostly collaborators and “puppets” have legal standing in American courts. Rarely can traditional or grassroots complaints be substantively heard, if they are heard, the American kangaroo court system prevails.

The Alaska Inter-Tribal Council (AITC) has adopted Resolution #2005-10 (**Exhibit 6**) on the 7 December 2005 “to recognize the efforts of the Indigenous Peoples and Nations Coalition and the Indigenous World Association that raise awareness of our status and, that protest against the wrongful acts committed against the Indigenous Peoples of Alaska” and to “promote and support the Traditional Tribal Governments and the Indigenous Peoples of the Alaska region as holders of the title and dominion and therefore the proper agents and authorities to quiet title and dominion” and “that the Alaska Inter-Tribal Council does hereby support the full review of the legal and political rights of the Indigenous Peoples of Alaska with the aim of addressing the unresolved violations of our rights”.

II. Charter of the United Nations

The Charter of the United Nations is a multilateral Treaty signed and ratified on August 8, 1945 by the United States of America as a Member State of the United Nations, which entered into force on October 24, 1945⁷. Under the Constitution of the United States of America the international treaty is the law of the land.

A. The United States is bound to the Charter of the UN as an international treaty

The United States bound itself to the *Declaration on Non-Self-Governing Territories*, the provisions of Article 73 of the Charter when it placed, *inter alia*, Alaska and Hawaii on the list of Non-Self-Governing Territories under General Assembly resolution 66(I) on the 14 December 1946. As the Administering Power for the *Foreign Nations* of the Kingdom of Hawaii and the Alaska Native Nations, the United States mislead the General Assembly by completely evading the obligations under Chapter XI, the Declaration Regarding Non-Self-Governing Territories -Article 73 and 74 of the Charter of the United Nations and, *inter alia*, Articles 1, 2, 55, 56, its elaborated factors and the principles adopted by the General Assembly and international law. Among the principles denied to the Kingdom of Hawaii and the Alaska Native Nations under Article 73 were 1) “to ensure, with due respect for their culture...their political, economic, social, and educational advancement, their just treatment and their protection against abuses” (Article 73 (a)); 2) the “political aspirations of the peoples, and to assist them in their progressive development of the free political institutions” (Article 73(b)); 3) and violated “international peace and security; and 4) that in context with the transmitted information in the final report by the United States was devoid of the necessary information that demonstrates a justifiable constitutional relationship under Article 73(e) to indicate that the United States fulfilled its obligation to advance or restore the Kingdom of Hawaii and the Alaska Native Nations to self-government or independence.

⁷ See http://en.wikipedia.org/wiki/UN_Charter - the Online Wikipedia Free Encyclopedia.qw32

Indigenous Peoples and Nations Coalition Human Rights Committee Shadow Report

The United States of America violated the Constitution of the United States of America when it unilaterally annexed Alaska and Hawaii and ceased reporting to the United Nations under 73(e). As the United Nations Charter is a multi-lateral treaty adopted by the United States of America; under Article VI, Clause 2 of the Constitution of the United States of America all treaties become the supreme law of the land and they bind the Judges in every State. The United States Supreme Court gave the following opinion in the case of international law in *Paquete Habana* (175 U.S. 677, 700 (1900)). The United States Supreme Court ruled that:

International law is part of our law, and must be ascertained and administered by the courts of justice of appropriate jurisdiction as often as questions of right depending upon it are duly presented for their determination. For this purpose, where there is no treaty and no controlling executive or legislative act or judicial decision, resort must be had to the customs and usages of civilized nations, and, as evidence of these, to the works of the jurists and commentators who by years of labor, research, and experience have made themselves peculiarly well acquainted with the subjects of which they treat. Such works are resorted to by judicial tribunals, not for the speculations of their authors concerning what the law ought to be, but for trustworthy evidence of what the law really is⁸.

Furthermore, a treaty, statute or ordinance that violates the Constitution of the United States of America is not valid nor can it be enforced⁹ The United States violated Constitution of the United States of America; it must obtain the consent of the governed and it cannot unilaterally incorporate Alaska and Hawaii. In that light, the 1867 Treaty of Cession between Tsarist Russia and the United States is an unlawful treaty since the United States of America already denied that the Northwest Territories (Alaska at the time) was not part of the Russian Empire. The United States Supreme Court supported this position when it determined in 1975 in *United States v the State of Alaska* (422 U.S. 184) that the 1867 Treaty of Cession between the Tsar of Russia and the United States of America effectively a quitclaim. A quitclaim cannot transfer title, especially since the United States itself asserted that Russia had not acquired it. Under the maxim "*Nemo dat quod non habet*" or "*no man can give another any better title than he himself has*" fully applies in the case of Alaska and Hawaii. This maxim particularly applies where the state of Alaska erroneously uses the 1867 Treaty of Cession as the basis and justification for the state of Alaska Constitution. Alaska and Hawaii are separate and distinct internationally recognized third parties that did not consent to annexation. Bearing in mind that United States consented to the international treaty obligations, the United States of America cannot legitimately claim the Territories of Alaska and Hawaii without the consent of the Alaska Native Nations and the Kingdom of Hawaii.

⁸ The idea to put this quote in the paper in the proper context was taken from: *The Defending Civil Resistance Under International Law* by Francis Anthony Boyle (Transnational Publishers 1987)

⁹ *Cross v Harrison*, 57 U.S. 164 (1853)

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

B. United States must fulfill its international obligations in good faith

In addressing international obligations, Ian Brownlie states "A state cannot plead provisions of its own law or deficiencies in that law in answer to a claim against it for an alleged breach of its obligations under international law."¹⁰ This is reflected in Article 27 of the Vienna Convention on the Law of Treaties (hereafter called the Vienna Convention). Further, the *pacta sunt servanda* principle that every treaty in force is binding must be performed in good faith under Article 26 of the Vienna Convention applies. Under Article 2.2 of the Charter of the United Nations, all Members are to fulfill in good faith their international obligations. The *jus cogens* principle is codified under Article 53 of the Vienna Convention on the Law of Treaties; the decolonization process is well-established practice under customary international law. In this regard, the principles embodied in the Charter of the United Nations under the decolonization process are customary international law practiced by other States in fulfilling their obligations to their Non-Self-Governing Territories in relation to common Article 1 of the international Covenants. This must establish a very sound correlation to positive law for addressing the violations of the right to self-determination of the Alaska Native Nations and the Kingdom of Hawaii. Indeed, many other Administering Powers had to re-instate Territories to the list and fulfill their international obligations under the Charter.

General Assembly resolution 1469 cannot release the United State of America from its international treaty obligations. The Kingdom of Hawaii and the Alaska Native Nations are 1) the original holders of title and dominion to these Territories as the proper agents and authorities and 2) the non-consenting third parties and 3) are not bound to the unilateral annexation that violates the multi-lateral Treaty – United Nations Charter. General Assembly resolution 1469 is dead on its face since it violates the UN Charter and international law by subjugating these Foreign Nations to domestic Federal Indian Law.

C. Scope and Application of States, Nations and Peoples under the UN Charter

In his book Self-determination In International Law (Archon books 1972) on page 44 and 45, Umozurike Oji Umozurike points out that in developing the text for both Article 1 (2) and Article 55 of the Charter of the United Nations, the phrase "based on respect for the principle of equal rights and self-determination of peoples" was inserted by the Russian foreign minister of the Soviet Union who stressed the great relevance to peoples in colonial territories and Mandates. This was to emphasize the importance of their stature with states in pursuance of their right to exercise self-determination under the principles "in conformity with the principles of justice and international law" expressed in Article 1.1 of the Charter. The principle "to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples" in Article 1.2 is enormously significant in the application of the Charter in that, as a Member of the

¹⁰ Public Principles of International Law, Ian Brownlie (Fifth Edition, Oxford University Press)

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

United Nations, the United States of America accepted in Article 2.2 that it "shall fulfil in good faith the obligations assumed by them in accordance with the present Charter". The representative of Belgium put the text "equal rights to self-determination of peoples" in Article 1.2 to the test when he attempted to amend the application of Articles 1(2) and 55(1) to clarify that the basis of friendly relations was between "States" and not "peoples". The drafting committee opposed and voted down the amendment that attempted to make "friendly relations" exclusively between States as the primary actors and to reduce "peoples" to secondary actors, so that the "equal right" would be between States and not to nations and peoples, **therefore: the right of self-determination in the Charter applies to equal right between States, nations and peoples.** In this light, the right of the peoples of the Territories of Alaska and Hawaii remain intact with the "equal right and self-determination" with States, nations and peoples. The diplomatic powers and right to pursue our claims and independent nations remains intact and operational.

The full meaning of, *inter alia*, Articles 1, 2, 55, 56, 73 and 74 is elaborated in the factors and principles in General Assembly resolutions, Declarations and Conventions such as the International Covenant on Civil and Political Rights (ICCPR). They are the result of the "progressive development of international law and its codification" under Article 13(a) of the Charter that was adopted to address the ways and means of resolving difficult question under the de-colonization process. The obligation to "develop friendly relations among nations based on respect for the equal right and self-determination of peoples" in Article 1.2 of the Charter is among the many purposes and principles of the Charter that are intrinsically related to Article 1 of the ICCPR. The progressive development of the *free political institutions* expressed in Article 73(b) were utilized to insure that colonial puppets institutions do not emerge to spoil the real expression of the equal right of self-determination and to insure their protection against abuses was practiced and upheld by other situations. Indeed, when France attempted to use her domestic policies in violation of the 'free political institutions' principle, GA 611 (VII) was adopted to ensure that the Tunisians exercise 'their right to full sovereignty and independence', virtually denying the use of domestic puppet machinery and policies¹¹. In this regard the United States must also adhere to factors and principles in the de-colonization process that are the result of the "*international co-operation* in the political field and encouraging the *progressive development* of international law and its codification" of Article 13(a) and "assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion" in Article 13(b) by fulfilling its obligations for Alaska and Hawaii. As such these principles became fully recognized *jus cogens* and *erga omnis* principles and are now, through practice, treated as positive international law.

D. Non-intervention and *fait accompli* not applicable in Alaska and Hawaii

The non-intervention principle embodied in Article 2 (7) of the Charter forbids the United Nations to deal with matters "essentially within the jurisdiction of any State". This

¹¹ UN and Domestic Jurisdiction by M. S. Rajan 1958, (See the Chapter IV on United Nations Practice, The Tunisian Question, page 220-221)

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

principle does not apply to peoples associated with Non-Self-Governing Territories. In this regard, the United States cannot claim that Alaska and Hawaii are 'country specific' or "within the domestic jurisdiction of any state" for the purpose of addressing the scope of the right to self-determination and human rights violations under the Charter of the United Nations and international law. It is clear that the United States has not fulfilled its international obligations to Alaska and Hawaii. When flagrant violations occurred in other cases, the Administering Powers had to re-enlist the Territories and implement the obligations. This has rang true in practice for several cases:

1. When France attempted to unilaterally remove Algeria from its international obligations and attempted to call it a *fait accompli*, the United Nations did not accept the unilateral removal; it reinstated Algeria, and insured that the peoples of Algeria exercise their full right of self-determination. This goes for Madagascar, Tahiti, and others.
2. The United States had to re-enlist Puerto Rico for harassing the independence movement.
3. When the Netherlands unilaterally removed Indonesia from the list of Non-Self-Governing Territories calling the suppression of the protests and strife "police action" within the domestic sphere of a State, Australia and India objected to the use of Article 2(7) reminding the *Kingdom of the Netherlands* that they accepted the obligations under Article 73 and as such those peoples have the right to exercise their right of self-determination under international law¹². International law and practice does not allow a State to invoke non-interference under Article 2(7) of the Charter, especially if you admitted historically that the particular territory is independent or foreign to your jurisdiction.
4. The most recent case that resulted in the exercise of independence is East Timor.

Less needs to be said about whether or not a State can unilaterally claim territory without fulfilling the international obligations regarding decolonization. The Declaration on Friendly Relations maintains that a Territory is separate and distinct until it has exercised its right of self-determination.

As Article 1 of the Covenant is in direct relationship the to obligations of self-determination under, *inter alia*, Articles 1, 2, 55, 56, 73 and 74 of the Charter of the United Nations and international law, in addressing the flagrant violations of international law we must surmise with well established practice that Alaska and Hawaii are not within the scope of Article 2(7) pertaining to domestic jurisdiction and non-intervention.

E. United Nations De-colonization Process

¹² UN and Domestic Jurisdiction by M. S. Rajan 1958, (See the Chapter on Non-Self-Governing Territories and The Indonesian Question, pages 184 to 201)

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

The factors and principles were instrumental in obligating states to implement their obligations for Non-Self-Governing Territories. One of the important resolutions, among many, at the time of the removal of Alaska and Hawaii is General Assembly resolution 742 (VIII) adopted on the 27 November 1953 (hereafter referred to 742 (VIII) (See **Annex: Exhibit 1.2 of GA Resolutions**). Again Professor S. Hasan Ahmad observes in his book The United Nations and the Colonies that, " For, any decision in the matter of cessation, to serve the purpose of the examination of the case by the United Nations, had to take as its basis on resolution 742 (VIII) and had to conform to its provisions and to the principles of the Charter."

The Committee on Information was to examine the information submitted by an Administering Power to determine whether or not it is no longer within the scope of Article 73 of the Charter of the United Nations (See 742 VIII, preamble section C). The validity was based upon whether or not the change in the political status or the form of association or political relationship (See 742 E) satisfied the requirements based upon the freely expressed will of the people under conditions of absolute equality at the time of the decision was made (742 (VIII F). The constitutional relationship is also a key element under Article 73(e) as well as 742 (VIII). These are a few of the obligations that are the basis of well established practice in other situations where Administering Powers had to address the violations and re-enlist the Territories for flagrant violations, among them - Tunisia, Algeria, Indonesian, Malta, Puerto Rico etc.; the list goes can go on and on.

The "Factors Indicative of the Attainment of Independence" as proscribed in General Assembly resolution 742 (VIII) are the most appropriate factors and principles to be considered in determining whether or not the subjects of the Territory of the Alaska Native Nations and the Kingdom of Hawaii exercise their right of self-determination through these already recognized *free political institutions*. The examination of the external relationship of Alaska and Hawaii would have thrown a new light upon the international legal and political status of these Territories and elevated the base of the existing obligations in the constitutional relationship between the United States and Alaska and Hawaii as two separate nations. The already recognized Kingdom of Hawaii and the Alaska Native Nations are fully recognized subjects of international law and therefore international legal personalities as *Foreign Nations* to the United States of America. The agents and authorities of the *Foreign Nations* of the Kingdom of Hawaii and the Alaska Native Nations did not consent to their annexation into the United States of America; therefore the territories and resources remain *foreign property* that does not belong to the United States of America.

Article 47 states that "Nothing in the present Covenant shall be interpreted as impairing the inherent right of all peoples to enjoy and utilize fully and freely their natural wealth and resources." Article 1(2) of this Covenant provides that "All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic cooperation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence." There is an attempt to quiet title to the land and natural resources in Alaska between the white racist regime state of Alaska and its parent the United States

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

under an original action Supreme Court Case called Quiet Title Action 128. This is a perfect example of how the United States excludes the Alaska Native Nations under the premise that our status lies under the 1955 Tee-Hit-Ton case v United States (348 U.S. 272) that was rendered with the assistance of the Ku Klux Klan Supreme Court Justice Hugo Black. The Alaska Native Nations are being buried alive by the use and excuse of the puppet machinery - the Alaska Federation of Natives and the Alaska Native Claims Settlement Act corporations to justify our exclusion. There is an attempt to import the example of the Alaska Native Claims Settlement Act to Hawaii. The absolute title and dominion of the Territory of the Kingdom of Hawaii, its land and natural resources must be restored to the stewardship of the original subjects of the Hawaiian Kingdom - the Kanaka Maoli peoples. The Alaska Native Nations and the Kingdom of Hawaii have never ceded their title and dominion to the United States of America. It was stolen by misleading the General Assembly of the United Nations. This is not acceptable.

The United States cannot claim Article 1, Section 8, Clause 3 of the Constitution under the auspices that they have the right to regulate commerce and trade of Indian Nations via the discriminating Federal Indian Law.

III. International obligations – Constitutional and Federal Indian Law

Federal Indian Law is a direct violation of, *inter alia*, Articles 1, 2, 3, 4 and 26 of the Covenant as well as the Constitution of the United States of America, the Charter of the United Nations and international law. In particular, “the principle of equal rights and self-determination of peoples (Article 55 preamble); with the “universal respect for, and *observance of*,” Article 55(c) in connection with: “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” Article 2 of the Covenant.

A. Federal Indian Law – International Status and Non-Discrimination

In his textbook, Public Principles of International Law, (Fifth Edition, Oxford University Press) Chapter II, section 3 on ‘The Relation between Obligations of States and Municipal Law’, Ian Brownlie states that: **“The law in this respect is well settled. A state cannot plead provisions of its own law or deficiencies in that law in answer to a claim against it for an alleged breach of its obligations under international law.”** This maxim of international law cannot be repeated enough. Despite this well accepted principle of international law, the United States of America unilaterally incorporated and annexed already recognized *Foreign Nations* of Alaska and Hawaii in violation of the international obligations under Article 73 of the Charter and international law under the false pretense of history utilizing domestic Federal Indian Law. The “equal right and self-determination” principle of Article 1.2 was disregarded to the recognized Foreign Nations. United Nations Experts and bodies must constantly be reminded of the true facts of history, since our case tends to be dismissed as a purely domestic situation settled “a long time ago”. The United Nations removed Alaska and Hawaii from Article 73 less than 50 years ago, which in political time, is yesterday. The United States cannot claim domestic

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

jurisdiction in fulfilling its international obligations, something it knew and deliberately omitted in Administering Alaska and Hawaii.

B. Original Constitutional Relationship with Indian Nations

The United States of America emancipated as a colony of Great Britain in the latter part of the 18th century defending the principles of 'consent of the governed' and 'taxation without representation'. The Constitution of the United States of America (hereafter referred to as 'the Constitution') originally recognized Indian Nations as independent, as reflected in the true meaning of the phrase "Indians not taxed" under Article 1, Section 2, Clause 3 of the Constitution. Based on the Department of Interior Solicitor's Opinion (M-31039) November 7, 1940, the phrase 'Indians not taxes' addresses two fundamental principles that the American Government is founded upon – 1) Representation and 2) taxation stating the relationship with the status of property. "Indians not taxed" is based upon two important distinctions – i) The Indian Nations are born outside the community of the United States in the dominion of their own tribes; they are not subjects of the United States but of the Indian Nations; and ii) that since taxation and representation go hand in hand, Indian Nations are not represented within the purview of governmental authority; they are separate and distinct political communities that are not the property of the United States of America. The founders of the American Constitution were applying to Indian Nations the fundamental principles that were fought for in the American Revolution. Thus, the cornerstone principle of 'taxation without representation' is applied to Indian Nations under the Constitution. As a result, the Northwest Ordinance of 1787 was adopted by the American Government to guide the United States in their future relations with Indian Nations. It states that:

"The utmost good faith shall always be observed towards the Indians; their lands and property shall never be taken from them without their consent; and, in their property, rights, and liberty, they shall never be invaded or disturbed, unless in just and lawful wars authorized by Congress; but law founded in justice an humanity shall from time to time be made for preventing wrongs being done to them, and for preserving peace and friendship with them."

The Alaska Native Nations and the Kingdom of Hawaii would never justify harnessing United States domestic law to settle our claims. This is only an example to convey to the Human Rights Committee and to the world what the United States has deviated from.

C. The Plenary Powers of Congress and Federal Indian Law is a legal fiction

In a radical departure from the original relationship with Indian Nations, the American Government concocted a string of United States Supreme Court decision in the development of "Federal Indian Law" that is devoid of justice and reason. This development of law diminished the recognized independent constitutional status of Indian Nations and brought destruction to the Indian peoples' culture and dispossessed them of

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

their land, territories and resources as Nations. Regarding the development and treatment of American Indians under United States law, the late Senator Sam J. Ervin, Jr. stated that **"One needs only to read a sampling of court decisions to realize that the Indian live in a legal no mans land."**¹³.

Federal Indian Law is based on Marshal Trilogy; the first of the three cases is the Johnson v. McIntosh (8 Wheat. 543 (1823)). The Johnson v McIntosh case coined 'aboriginal title' and placed Indian Nations under dependent domestic law. To paraphrase the argument and justification for deviating from the Constitution of the United States of America in the case, the Marshal Court opined that: The Creator has granted the rights of discovery and conquest to the great civilized nations of Europe for whom the superior genius of Europe might claim an ascendancy against the savages and heathens who must trade their land and sovereignty for the Christian religion. Discovery title does not exist in Alaska or Hawaii. Hawaii was an independent state and the United States of America denied to Tsarist Russia discovery title, acquisition by peaceable occupation or uncontested possession then declared us as independent¹⁴.

The United States imported the Johnson v. McIntosh (8 Wheat. 543 (1823) (hereafter called Johnson v McIntosh case) case to Alaska through the Tee-Hit-Ton v. United States (348 U.S. 272(1955) in 1955 as the basis for domesticating the Foreign Nation of the Alaska Native Nations in violation of, *inter alia*, General Assembly resolution 637 (VII) 16 December 1952 and 644 (VII) adopted on 10 December 1952 (See Annex: Exhibit 1.3).

D. U.S. Domestic 'Federal Indian Law' Usurped the International Obligations

GA Resolution 637 (VII) entitled, "The Right of Peoples and Nations to Self-determination" proscribed in Part A, operative paragraph 3, that "The States Members of the United Nations... shall take practical steps, pending the realization of the right of self-determination and in preparation thereof, to insure the direct participation of the *indigenous* populations in the legislative and executive organs of government of those territories, and to prepare them for complete self-government or independence.

The General Assembly adopted resolution 644 (VII) entitled "Racial discrimination in Non-Self-Governing Territories on the 10 of December 1952. This resolution recognized the "the fundamental distinction between discriminatory laws and practices, on the one hand, and protective measures designed to safeguard the rights of the *indigenous* inhabitants, on the other hand" (preambular paragraph 3). It recommends that the "Administering Members should examine all laws, statues and ordinance in force in the Non-Self-Governing Territories under their administration, as well as their application is said territories, with a view to the abolition of any such discriminatory provisions or practices (operative paragraph 2).

¹³ See Senator Sam J. Ervin, Jr., Civil Rights for American Indians; U.S. CODE CONGRESSIONAL AND ADMINISTRATIVE NEWS "1968", PAGES 1863 -1867.

¹⁴ HR/GENEVA/TSIP/SEM/2003/BP.21, Section II

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

General Assembly resolution 644 did not protect the Alaska Native Nations or the Kingdom of Hawaii against the abusive intrusion of the discriminating Federal Indian Law in the Non-Self-Governing Territories. The United States of America instituted the United States Supreme Court decision *Tee-Hit-Ton v. United States of America* (348 U.S. 272) case in 1955. In footnote 18 of the Tee-Hit-Ton case the Supreme Court cites the *Carino v. Insular Government of the Philippine Islands* (212 US 449, 53 L ed 594, 29 S Ct 334) stating that "**The acquisition of the Philippines was not like the settlement of the white race in the United States. Whatever consideration may have been shown to the North American Indians, the dominant purpose of the whites in America was to occupy the land** Thus the United States justified the reduction of the absolute title and dominion of the soil in Alaska from that of a Foreign Nation to aboriginal title under domestic Federal Indian Law. In the United Nations paper E/CN.4/Sub.2/2001/21 entitled *Indigenous Peoples and their relationship to land*, the Special Rapporteur Mrs. Erica-Irene A. Daes, portray the extremely racial character of the case in paragraphs 41 to 44 of the report. The Special Rapporteur also reported that the Indigenous Peoples of Alaska did not consent to the any legislation imposed by the United States Congress.

United States Supreme Court Justice Hugo Black sat on the bench at the time of Tee-Hit-Ton was litigated. Justice Black was sworn in as a lifetime member of the Ku Klux Klan and swore that he would "most zealously and valiantly shield and preserve by any and all justifiable means and methods...white supremacy". (Hugo Black – A Biography by Roger K. Newman, Page 95) *** In a speech Mr. Black continued: "I see a vision honored by the Nations of the World... With my love, with my faith...this great organization will carry on sacredly...straight for the heart of Anglo-Saxon patriots...." (Ibid., Page 116 of) Is the international community going to accept their proscribed status as "Anglo-Saxon patriots" by condoning US Federal Indian Law?

If General Assembly resolutions 644(VII), 637 (VII) and 742 (VIII) were implemented in good faith as stipulated the following results could have been thrown into light:

1. 1893 overthrow would have been invalidated and any domestication process to incorporate the Hawaiian Islands would have been abrogated. The Kingdom of Hawaii would have been restored and used as the basis for determining the status of the relationship with the United States of America.
2. In the case of Alaska, the 1867 Treaty of Cession would have been abolished as the basis for incorporating the Territory of Alaska. The Traditional Indigenous Governments that the United States asserted were independent from Tsarist Russia would have been the basis for determining the status and relationship with the United States of America.

Despite the obligations under international law, the U.S. Supreme Court used the racist Doctrine of Manifest Destiny, declared that the land in Alaska was for the white race, and further determined the Indigenous Peoples of Alaska had no 5th amendment rights under the Constitution of the United States, that is, no right to property, due process of law, just

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

compensation...etc, without any specific restriction or limitation in the application of that crime.

E. Colonialism based upon racial discrimination is apartheid and a non-derogable violation of the right to self-determination and a crime against humanity

Professor M. S. Rajan in his other book The Expanding Jurisdiction of the United Nations (See Chapter III, Non-Self-Governing Territories, pages 36-7) observes that, "General Assembly resolution 2189 (XXI) declared that continuation of colonial rule threatened international peace and security and that *apartheid* and all forms of racial discrimination constitute a "crime against humanity"(not just against colonial peoples only); it urged all states to provide material and moral assistance to national liberation movements in colonial territories...until they removed the policies of racial discrimination and colonial domination; it asked colonial Powers to dismantle their military bases installations in colonial territories and condemned the activities of foreign financial and economic interests".

The colonial racist regime state of Alaska has postured politically and economically so the white American is the stronghold property owner of an interest that was recognized as foreign to the United States of America. It is of particular interest to see the basis of institutionalized racism that further manifests itself in what the United States deems as the 'Incorporated Territory of Alaska' it in its submission of information to the Decolonization Committee in 1959; this eventually lead to annexation with the aid of the crassly discriminating Tee-Hit-Ton Case that is legally nothing more than constructive fraud¹⁵. (The *equity definition* of the term is the most appropriate).

The "political, economic and social advancement" under Article 73 was designated for the white race in Alaska via the Tee-Hit-Ton case. The 'white race' are the 'foreign minority group' (United States to its own citizens and military) referred in GA 742 (VIII), Second part, Section C (3) (See **Exhibit 1.2**), that received the help of the "foreign Power (United States), [that] has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory, and by the decree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments". In the 50's, the vast beneficiaries of the 'foreign territory' of Alaska was American citizens and its military, who were granted large tracts of land

¹⁵ **Constructive fraud.** 1. Unintentional deception or misrepresentation that causes injury to another. – Also termed *legal fraud*; *fraud in contemplation of law*; *equitable fraud*; *fraud in equity*. 2. See *fraud in law*. [Cases: Fraud] "In equity law the term fraud has a wider sense, and includes all acts, omissions, or concealments by which one person obtains an advantage against conscience over another, or which equity or public policy forbids as being to another's prejudice; as acts in violation of trust and confidence. This is often called constructive, legal, or equitable fraud, or fraud in equity." *Encyclopedia of Criminology* 175 (Vernon C. Branham & Samuel B. Kutash eds., 1949), s.v. "Fraud."; (Black's Law Dictionary, Eighth Edition, Bryan A. Garner, Editor In Chief. 2004)

Indigenous Peoples and Nations Coalition Human Rights Committee Shadow Report

Alaska set the stage to nationalize the fully recognized subjects of international law in Hawaii. The case of Alaska was an example of what could be implemented in Hawaii. The Tee-Hit-Ton and Johnson v McIntosh cases affirmed the direct application of the racist Doctrine of Manifest Destiny, Doctrine of Incorporation and several other 'doctrines' or derogatory principles to effectively subjugate, dominate and exploit Alaska and Hawaii under the auspices of domestic dependent Federal Indian Law right under the noses of the Decolonization Committee and the General Assembly of the United Nations.

The American Government deviated from its obligations by creating institutions such as the Indian Claims Commission and the Bureau of Indian Affairs to manipulate the historical and legal facts in law, basically committing more fraud. This gave the President, the Congress and the American Justice system the free reign to manipulate American Indian law, which continues to perpetuate the construction of more fraud.

F. Federal Indian Law violates Article 15 of the Convention

The use of United States Federal Indian Law in Alaska and Hawaii is a serious departure from Article 15 of the International Covenant on Civil and Political Rights and the Constitution of the United States of America¹⁶ through the insertion of *ex post facto law*. The United States Government has re-created law to fit the crime in contravention of the original intent of the Constitution of the United States of America by engineering the facts in history, omitting the application of the international obligations of Alaska and Hawaii and by nationalizing international personalities into the sphere of domestic Federal Indian Law. These laws discriminate against the American Indians, Alaska Natives and the Kanaka Maoli Hawaiians in complete disregard of the independent status of the Kingdom of Hawaii and the independently recognized Alaska Native Nations.

This has served as an expedient justification to re-create and diminish our rights through U.S. domestic Presidential Executive Orders, United States Supreme Court Decisions and Congressional legislation. This will be the justification (as it so often is) of many lawyers, politicians and diplomats in the legal, political, and foreign relations profession to justify the violations of the Constitution of the United States of America, the Charter of the United Nations, human rights and international law at international bodies. Many legal buffoons claim that their actions are « legal » and therefore « lawful » despite the lack of constitutional authority and sound law to annex foreign territory without the consent of the people.

G. Taxation without Representation

It is obvious that the United States recognized the Territories of Alaska and Hawaii as Foreign Nations that *do not belong* to the United States and are in the purview of "Indians not taxed". The United States did not respect the status of the Kingdom of

¹⁶ Article I, Section 9, Clause 3 "No Bill of Attainder or ex post facto Law shall be passed."

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

Hawaii and the Alaska Native Nations, therefore the proper agents and authorities did not consent to annexation and remain outside the community of the United States. Therefore, the United States of America cannot assert their authority to govern under Article IV, Section 3, Clause 2: "The Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States; and nothing in this Constitution shall be so construed as to Prejudice any Claims of the United States, or of any particular State." Through this piecemeal domestication process the United States is imposing direct Taxes¹⁷ without the "consent of the governed" thereby imposing "taxation without representation" to the subjects of the Alaska Native Nations and the Kingdom of Hawaii. Alaska and Hawaii are clearly not legitimately one the of the "several States...included within its Union" as proscribed under Article 1, Section 2, Clause 3 of the Constitution of the United States of America and are therefore not legitimately within the boundary of the United States of America. Additionally, there still remains a boundary dispute between Canada and the United States and the Russian Federation on the Alaska border.

IV. The Legitimacy of the Right to Resist Colonialism

The subjects of the Alaska Native Nations and the Kingdom of Hawaii have the right to resist the theft and dispossession of their Territory and resources by a Foreign State to preserve their international legal status.

A. The legitimacy of peoples under colonial rule to struggle against colonialism

The subjects of Alaska and Hawaii are not among the "free persons" who agreed to be exploited by the United States of America under "Federal Indian Law", but are actually subjects of occupied Foreign Nations enslaved by an economic and military Power who unilaterally imposes citizenship under its domestic naturalization laws. The United States Congress passed legislation (8 U.S.C., Sections 1401, 1404 for Alaska and 1405 for Hawaii, 1924 Citizenship Act) to nationalize the Foreign Subjects of Alaska and Hawaii.

¹⁷ **Article I, Section 2, Clause 3** "Representatives and direct Taxes shall be apportioned among the several States which may be included within this Union, according to their respective Numbers, which shall be determined by adding to the whole Number of free Persons, including those bound to Service for the Term of Years, **and excluding Indians not taxed**, three fifths of all other Persons.(see constitutional amendment from note 2, page 2 of this Article) The actual Enumeration shall be made within three Years after the first Meeting of the Congress of the United States, and within every subsequent Term of ten Years, in such Manner as they shall by Law direct. The Number of Representatives shall not exceed one for every thirty Thousand, but each State shall have at Least one Representative; and until such Enumeration shall be made, the State of New Hampshire shall be entitled to chuse three, Massachusetts eight, Rhode-Island and Providence Plantations one, Connecticut five, New-York six, New Jersey four, Pennsylvania eight, Delaware one, Maryland six, Virginia ten, North Carolina five, South Carolina five, and Georgia three."

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

This was an effort to facilitate the imposition of statutory law to justify unilateral domestication of subjects of foreign States under the 1924 Citizenship Act. This was enacted to deny us of our international status by imposing domestic law to unilaterally 'incorporate' under the so-called "doctrine of incorporation".

By General Assembly resolution 2105 (XX) of 20 December 1965, the United Nations recognized "the legitimacy of the struggle by the peoples under colonial rule to exercise their right to self-determination and independence". There are subjects of both Alaska and Hawaii that are defiantly denying that the United States of America has legitimately annexed the Alaska Native Nations and the Kingdom of Hawaii and that these Territories are the property of the United States of America.

The subjects of the Alaska Native Nations and Kingdom of Hawaii reject the sovereign authority of the United States of America and its political sub-divisions and the claims that they have consented to the annexation of their respective territories. There is mounting civil resistance that ranges from the denial of control over hunting and fishing rights to the denial of the right of its taxing authorities to tax on property that does not belong to the United States. The specific emphasis must be asserted that Alaska and Hawaii do not belong to the United States of America. Several diplomatic protests were lodged against the United States of America at the Commission on Human Rights. (See **Annex: Exhibits 3.1 and 3.2 for diplomatic protests CHR 60 Item 5, CHR 61 Item 10**) These diplomatic protests call for a full review of the cases to address the violations with the aim to restore the full recognition and operation of the international status of Alaska and Hawaii.

In a Territorial dispute of this magnitude, the United States should have "punished the Piracies and Felonies committed on the high Seas, and Offences against the Law of Nations" as proscribed in Article 1, Section 8, Clause 10 of the Constitution of the United States of America. Unfortunately, time and realization of the action and practice of the United States proves that it is not capable of taking the initiative to rectify such abuses of authority committed by officials in their own Government. United States officials are aware of this dispute due to the several diplomatic protests and notification of the occupying Senators and agents; nothing has been done to rectify these wrongful acts which is proof of "taxation with *pretended* representation" (See **Annex: Exhibit 7 is an example of a stamped and received notification to a Senator in Alaska, same issue as presented in Exhibit 4**).

V. The Referendum

A. Other violations of the ICCPR and international law highlighted

The Alaska Native Nations and their subjects did not approve of the Constitution of the state of Alaska. It was the "white race" and United States military that voted in the referendum who was able to vote in the referendums that excluded the Alaska Natives in violations of, *inter alia*, General Assembly resolutions 328 (IV) 2 December 1949; 329

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

(IV) 2 December 1949; 637 (VII) 16 December 1952; 644 (VII) 10 December 1952; 744 (VIII) 27 November 1953 and again 742 (VIII) 27 November 1953.

- 1) General Assembly resolution 328 (IV) from the 2 December of 1949 called for the "Administering Members to take steps ...to establish equal treatment in matters related to education between inhabitants of the Non-Self-Governing Territories under their administration, whether they be *indigenous* or not";
- 2) General Assembly resolution 329 (IV) from the 2 December 1949 entitled Language of instruction in Non-Self-Governing Territories, the United Nations recognizes "the importance of preserving and developing the languages of the **indigenous peoples** of the Non-Self-Governing Territories" and "To make these languages where and whenever possible the languages of instruction... without prejudice to the use of any other language". This resolution² further stated "the obligation accepted under Article 73 d of the Charter, the Administering Members will collaborate with the United Nations Educational, Scientific and Cultural Organization in the conduct of such a study".
- 3) General Assembly Resolution 637 (VII) 16 December 1952 from 16 December 1952 was to insure the direct participation of the **indigenous** populations and in Part B, operative paragraph 1, the Administering Powers were to include in information under Article 73e "*details regarding the extent to which the right of peoples and nations of self-determination is exercised by the peoples of those Territories, and in particular regarding their political progress and the measures taken to develop their capacity for self-administration, to satisfy their political aspirations and to promote the progressive development of their free political institutions*".
- 4) General Assembly resolution 744 (VIII) from the 27 November 1953 called for the, "**indigenous** representatives specially qualified to speak on these matters as they relate to these Territories" to participate in the work in accordance with GA 637.
- 5) General Assembly resolution 742 (VIII) from the 27 November 1953 called for the Administering power to pay close attention to see if the military voted in the referendums. Of course the United States military was treated as if they owned the Territories and voted in the referendums.

To demean the Alaska Native Nations, in 1926 the United State Congress discussed the impact that the illiterate Indians, Eskimos and Aleutes were having on the development of Alaska³. The American citizens were complaining that the Natives were stopping statehood development. The United States Congress determined they needed to place mental qualifications, that is, a literacy test for voters. The result was the adoption of a literacy test for voters⁴ that was aimed and directed to stop the indigenous vote. This law created a literacy test that required you to speak and read in English; and if you attempted

² The General Assembly resolution uses the term "indigenous peoples" without any qualification

³ H.R. Rep. No. 728, 69th Cong., 1st Sess. (1926)

⁴ Mar. 3, 1927, ch. 363, § 8, 44 Stat. 1394

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

to participate in the vote you were subject the 500 dollars fine, six months in jail or both⁵.

Both Alaska and Hawaii did not get to vote with a free informed choice to annex the respective Territories belonging to the Alaska Native Nations and the Kingdom of Hawaii. The question on the ballot did not include the right to independence. The American Citizens and the United States military annexed these Territories.

B. Alaska referendum questions and results

The following paragraph is taken from the report submitted to the United Nations Committee on Information; it summarizes the questions presented to the voters in Alaska (A/4115, English, Annex I, page 5):

“In the special election held on August 26, 1958, **Proposition 1**: “Shall Alaska immediately be admitted into the Union as a State?” was adopted by 40,452 to 8,010. **Proposition 2**: “The Boundaries of the State of Alaska shall be as prescribed in the Act of Congress approved July 7, 1958, and all claims of this State to any areas of land or sea outside the boundaries so prescribed are hereby irrevocably relinquished to the United States” was adopted by a vote of 40,421 to 7,766. Final, **Proposition 3**: “All provisions of the Act of Congress approved July 7, 1958 reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the Grants of land or other property therein made to the States of Alaska, are consented to fully by said State and its people”, was adopted by 40, 739 votes to 7,500. (‘Propositions’ are bolded and the vote questions are underlined for more clarity for the reader by the author of this paper)

C. Hawaii referendum question and results

The following paragraph is taken from the report submitted to the United Nations Committee on Information; it summarizes the questions presented to the voters in Hawaii (A/4226, English, Annex I, page 3):

“In the special election held on 27 June 1959, **Proposition 1**: “Shall Hawaii immediately be admitted into the Union as a State?” was adopted by 132,938 voted to 7,854.

⁵ United States Code, Title 48, §57 and §58 (1940).

§ 57. Enumeration of all qualifications requisite to voting; citizenship; age, residence, and educational test. All citizens of the United States, twenty-one years of age and over, who are actual and bona fide residents of Alaska, and who have been such residents continuously during the entire year immediately preceding the election, and who have been such residents continuously for thirty days next preceding the election in the precinct in which they vote, and who are able to read and write the English language as prescribed and provided by section 51 of this title, and who are not barred from voting by any other provision of law, shall be qualified to vote at any of the elections mentioned in said section 51. (Mar. 3, 1927, ch. 363, § 7, 44 Stat. 1394.)

§ 58. Violation of provisions affecting voting; penalties. Any person who violates any of the provisions of sections 51-57 of this title shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$500, or by imprisonment in jail for not more than six months, or by both such fine and imprisonment. (Mar. 3, 1927, ch. 363, § 8, 44 Stat. 1394.)

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

Proposition 2: “The boundaries of the State of Hawaii shall be as prescribed in the Act of Congress approved March 18, 1959, and all claims of this State to any areas of land or sea outside the boundaries prescribed are hereby irrevocably relinquished to the United States” was approved by a similar vote, as was **Proposition 3:** “All provisions of the Act of Congress approved March 18, 1959, reserving rights or powers to the United States, as well as those prescribing the terms or conditions of the grants of lands or other property therein made to the State of Hawaii are consented to fully by said State and its people.” These results were then duly certified by the Governor to the President.” (‘Propositions’ are bolded and the vote questions are underlined for more clarity for the reader by the author of this paper)

In his article entitled, “The International Legal Status of Native Alaska”, published in the Alaska Native News, Russell Lawrence Barsh notes the following on the referendum of 1958:

“The legal effect of the 1958 referendum depends chiefly on whether Natives should have been given an opportunity to vote *separately* on their future status. Similar problems have arisen elsewhere. Palestine had an overwhelming Arab majority in the 1920's, but European immigration nearly reversed this by the 1940's. The United Nations abandoned plans for a single independent Palestine and resolved on partitioning the territory so that European-majority and Arab-majority areas could exercise their rights of self-determination separately.²² Ethnic and historical diversity justified separate, regional plebiscites in the Cameroon's and Micronesia and regional tabulation of votes in Togoland.²³ An exception was Fiji, where East Indian immigrants outnumbered Fijians, but the General Assembly insisted on both populations voting together.²⁴ Neither population was inclined to partition of the islands, however, and the proposed national constitution preserved a degree of autonomy for native Fijians.²⁵”

“International law also requires a real choice and one in which the voters are “acting with full knowledge” of the consequences.²⁶ It is far from clear how many Native Alaskans understood the significance of the 1958 ballot. Only about half of all adult Alaska residents voted at all. Natives were moreover given no opportunity to seek greater autonomy or independence from the United States. In fact, Congress deliberately excluded “the legal merits of indigenous rights” from consideration, awaiting “either future legislative action or judicial determination.”²⁷ Failure to include independence as an option and harassment of pro-independence organizations were reasons for the United Nations' recent reconsideration of the status of Puerto Rico.²⁸ Similar questions have been raised over the 1978-79 plebiscites conducted by the United States in Micronesia.²⁹”

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report
VI. Conclusions and Recommendations

A. Conclusion

1. In 1959, the Committee of Information, the decolonization committee of the United Nations responsible for inspecting the information submitted by the United States of America as an Administering Power, did not sufficiently examine in detail the requirements to determine whether or not the peoples of the Territory freely chose their present status or exercised their right to self-determination. The Alaska Native Nations and the Kingdom of Hawaii did not relinquish their territory and resources. The obligations to properly examine the facts to *effectively* determine the status, change of status and the constitutional relationship were seriously disregarded in violation of international law, the Charter of the United Nations and the factors and principles adopted by the General Assembly. The truth about history in these cases is that the United States of America invaded and molested the Kingdom of Hawaii and the Alaska Native Nations .
2. The United States of America annexed the territories under false premises, omission or manipulation of history and law under domestic law by engineering United States Supreme Court decisions, setting up its own institutions and making agreements with itself. The United States of America then grossly mislead the General Assembly of the United Nations by denying the Alaska Native Nations and the Kingdom of Hawaii the opportunity to consent to annexation. The United States of America colonized Alaska and Hawaii with no oversight from the United Nations. General Assembly resolution 1469 must be invalidated and finally the already recognized proper agents and authorities the Alaska Native Nations and the Kingdom of Hawaii must be reinstated to their independent status. Unless there is an effort to rectify the situations, the Kingdom of Hawaii and the Alaska Native Nations will continue to be molested by the United States of America.
3. On the eve of the adoption of the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples by the United Nations General Assembly, the United States of America *unilaterally* petitioned to remove Alaska and Hawaii through GA resolution 1469 without the fully informed consent of the proper agents and authorities and their peoples. This was a deliberate move to deprive the subjects of the Kingdom of Hawaii and the Alaska Native Nations their right to self-determination under international law through more developed procedures. The Indigenous Nations of Indigenous Peoples resist the gross misrepresentation of the historical and legal facts that lead to their illegal annexation. This resistance is similar to the same claim of "taxation without representation" and "consent of the governed" against Great Britain in the American Revolution.
4. United States Supreme Court decisions, Congressional acts or legislation pertaining to the unlawful nationalization of the Foreign Property of the Alaska Native Nations and the Kingdom of Hawaii must be invalidated. As independent countries our relationship with the United States of America is as Foreign Nations.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

5. The status of Alaska and Hawaii needs specific review to determine how to resolve the territorial dispute and restore them to their legitimate status. The United Nations cannot allow the United States of America to usurp the rights and titles of the peoples of Alaska and Hawaii without their consent.
6. The reservations and declarations by the United States make the claim that the Constitution of the United States of America is enough to satisfy the requirements for fulfilling its human rights obligations. This has left a black hole of impunity for all American Indians, Alaska Native and Kanaka Maoli Hawaiians. Its denial of justice and the non-application of the founding principles of the United States of America, among them consent of the governed and taxation without representation, have deprived the Alaska Native Nations, the Kingdom of Hawaii and the Indigenous Peoples of the Americas of their just treatment and protection against abuses.

B. Recommendations

In addressing the violations of Alaska and Hawaii, we recommend that the Human Rights Committee submit in its annual report to the General Assembly in July of 2006, a recommendation to send the case to the International Court of Justice to obtain an Advisory Opinion. This would be done under the auspices of the pertinent human rights Articles of the Charter Article 1 and 55 of the Charter, and of Article 14 which states that "the General Assembly may recommend measures for the peaceful adjustment of any situation...including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations." Our Indigenous Peoples and Nations Coalition would hope that this would be implemented as an extended service to promote encouragement to address the unresolved violations that resulted in the unilateral removal of Alaska and Hawaii from the de-colonization process. The Indigenous Peoples and Nations Coalition and the subjects of the Alaska Native Nations and the Kingdom of Hawaii must be consulted on this. The United States must be called upon to cease their subjugation, domination and exploitation of the subjects of the Alaska Native Nations and the Kingdom of Hawaii.

The Human Rights Committee must ask the following questions to the States:

- 1) How is the United States planning to address in good faith the unresolved obligations under Article 1 and related Articles of the International Covenant on Civil Rights that are directly related to, *inter alia*, Article 1, 2, 55, 56, 73 and 74 of the Charter of the United Nations and international law to rectify the violations regarding General Assembly resolution 1469 of 12 December 1959 for the situation of Alaska and Hawaii?
- 2) Can the United States provide a report to indicate that you will involve the proper agents and authorities in Alaska and Hawaii to address the right of self-determination and non-discrimination and what initial steps you will take to address these violations?

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report
ANNEXX

Exhibit 1.1

1469 (XIV). Cessation of the transmission of information under Article 73 e of the Charter in respect of Alaska and Hawaii

The General Assembly

Recalling that, by resolution 222 (III) of 3 November 1948, the General Assembly, while welcoming any development of self-government in Non-Self-Governing Territories, considered it essential that the United Nations be informed of any change in the constitutional status of any such Territory as a result of which the responsible Government concerned thinks it unnecessary to transmit information in respect of that Territory under Article 73 e of the Charter of the United Nations,

Having received from the Government of the United States of America communications dated 2 June 1959³³ and 17 September 1959³⁴ informing the Secretary-General that Alaska and Hawaii, respectively, have, as a result of their admission into the United States as the forty-ninth and fiftieth States, attained a full measure of self-government and that, as a consequence of this change in their constitutional status, the United States Government would cease to transmit information under Article 73 e of the Charter in respect of Alaska and Hawaii,

Having examined the communication of the Government of the United States of America in the light of the basic principles and objectives embodied in Chapter XI of the Charter and of all the other elements of judgment pertinent to the issue,

Bearing in mind the competence of the General Assembly to decide whether a Non-Self-Governing Territory has or has not attained a full measure of self-government as referred to in Chapter XI of the Charter,

1. *Takes note* of the opinion of the Government of the United States of America that, owing to the new constitutional status of Alaska and Hawaii, it is no longer appropriate or necessary for it to transmit information under Article 73 e of the Charter of the United Nations in respect of Alaska and Hawaii;
2. *Expresses the opinion*, based on its examination of the documentation and the explanations provided, that the people of Alaska and Hawaii have effectively exercised their right to self-determination and have freely chosen their present status;
3. *Congratulates* the United States of America and the people of Alaska and Hawaii upon the attainment of a full measure of self-government by the people of Alaska and Hawaii;
4. *Considers* that, owing to the circumstances mentioned above, the declaration regarding Non-Self-Governing Territories and the provisions established under it in Chapter XI of the Charter can no longer be applied to Alaska and Hawaii;
5. *Considers* it appropriate that the transmission of information in respect of Alaska and Hawaii under Article 73 e of the Charter should cease.

³³ Ibid., Fourteenth Session, Annexes, agenda item 36, document A/4115.

³⁴ Ibid., document A/4226.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

855 plenary meeting,
12 December 1959

GA Resolution 1.2

- A. 742 (VIII). Factors which should be taken into account in deciding whether a Territory is or is not a Territory whose people have not yet attained a full measure of self-government**

The General Assembly,

Bearing in mind the principles embodied in the Declaration regarding Non-Self-Governing Territories and the objectives set forth in Chapter XI of the Charter,

Recalling the provisions of resolutions 567 (VI) and 648 (VII), adopted by the General Assembly on 18 January and 10 December 1952 respectively, **indicating the value of establishing a list of factors which should be taken into account in deciding whether a Territory has or has not attained a measure of self-government,**

Having regard to the competence of the General Assembly to consider the principles that should guide the United Nations and the Member States in the implementation of obligations arising from Chapter XI of the Charter and to make recommendations in connexion with them,

Having examined the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories) set up by resolution 648 (VII),

- A. *Takes note* of the conclusions of the report of the *Ad Hoc* Committee on Factors (Non-Self-Governing Territories);
- B. *Approves* the list of factors as adopted by the Fourth Committee;
- C. *Recommends* that the annexed list of factors should be used by the General Assembly and the Administering Members as a guide in determining whether any Territory, due to changes in its constitutional status, is or is no longer within the scope of Chapter XI of the Charter, in order that, in view of the documentation provided under resolution 222 (III) of 3 November 1948, a decision may be taken by the General Assembly on the continuation or cessation of the transmission of information required by Chapter XI of the Charter;
- D. *Reasserts* that each concrete case should be considered and decided upon in the light of the particular circumstances of that case and taking into account the right of self-determination of peoples;
- E. *Considers* that the validity of any form of association between a Non-Self-Governing Territory and a metropolitan or any other country essentially depends on the freely expressed will of the people at the time of the taking of the decision;
- F. *Considers* that the manner in which Territories referred to in Chapter XI of the Charter can become fully self-governing is primarily through the attainment of independence, although it is recognized that self-government can also be achieved by association with another State or group of States if this is done freely and on the basis of absolute equality;
- G. *Reaffirms* that the factors, while serving as a guide in determining whether the obligations as set forth in Chapter XI of the Charter shall exist, should in no way

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

be interpreted as a hindrance to the attainment of a full measure of self-government by a Non-Self-Governing Territory:

- H. *Further reaffirms* that, for a Territory to be deemed self-governing in *economic, social or educational* affairs, it is essential that its people shall have attained a full measure of self-government;
- I. *Instructs* the Committee on Information from Non-Self-Governing Territories to study any documentation transmitted hereafter under resolution 222 (III) in the light of the list of factors approved by the present resolution, and other relevant considerations which may arise from each concrete case of cessation of information;
- J. *Recommends* that the Committee on Information from Non-Self-Governing Territories take the initiative of proposing modifications at any time to improve the list of factors, as may seem necessary in the light of circumstances.

459th plenary meeting,
27 November 1953

ANNEX

List of Factors

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE OR OF
OTHER SEPARATE SYSTEMS OF SELF-GOVERNMENT

First Part

FACTORS INDICATIVE OF THE ATTAINMENT OF INDEPENDENCE

B. *International status*

- 1. *International responsibility.* Full international responsibility of the Territory for the acts inherent in the exercise of its external sovereignty and for the corresponding acts in the administration of its internal affairs.
- 2. *Eligibility for membership in the United Nations.*
- 3. *General international relations.* Power to enter into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments.
- 4. *National defense.* Sovereign right to provide for its national defense.

B. Internal self-government

- 5. *Form of government.* Complete freedom of the people of the Territory to choose the form of government which they desire.
- 6. *Territorial government.* Freedom from control or interference by the government of another State in respect of the internal government (legislature, executive, judiciary, and administration of the Territory).
- 7. *Economic, social and cultural jurisdiction.* Complete autonomy in respect of economic, social and cultural affairs.

Second part

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

FACTORS INDICATIVE OF THE ATTAINMENT OF OTHER
SEPARATE SYSTEMS OF SELF-GOVERNMENT

A. *General*

1. *Opinion of the population.* **The opinion of the population of the Territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.**
2. *Freedom of choice.* **Freedom of choosing on the basis of the right of self-determination of peoples between several possibilities, including independence.**
3. *Voluntary limitation of sovereignty.* **Degree of evidence that the attribute or attributes of sovereignty which are not individually exercised will be collectively exercised by the larger entity thus associated and the freedom of the population of a Territory which has associated itself with the metropolitan country to modify at any time this status through the expression of their will by democratic means.**
4. *Geographical considerations.* **Extent to which the relations of the Non-Self-Governing Territory with the capital of the metropolitan government may be affected by circumstances arising out of their respective geographical positions, such a separation by land, sea or other natural obstacles extent to which the interests of boundary States may be affected, bearing; and in mind the general principle of good-neighborliness referred to in Article 74 of the Charter.**
5. *Ethnic and cultural considerations.* **Extent to which the populations are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.**
6. *Political advancement.* **Political advancement of the population sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.**

B. *International status*

1. *General international relations.* **Degree or extent to which the Territory exercises the power to enter freely into direct relations of every kind with other governments and with international institutions and to negotiate, sign and ratify international instruments freely. Degree or extent to which the metropolitan country is bound, through constitutional provisions or legislative means, by the freely expressed wishes of the Territory in negotiating, signing and ratifying international conventions which may influence conditions in the Territory.**
2. *Change of political status.* **The right of the metropolitan country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.**
3. *Eligibility for membership in the United Nations.*

C. *Internal self-government*

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

1. *Territorial government.* Nature and measure of control or interference, if any, by the government of another, State in respect of the internal government, for example, in respect of the following:
 - Legislature:* The enactment of laws for the Territory by an *indigenous body* whether fully elected by free and democratic processes or lawfully constituted in a manner receiving the free consent of the population;
 - Executive:* The selection of members of the executive branch of the government by the competent authority in the Territory receiving consent of the indigenous population, whether that authority is hereditary or elected, having regard also to the nature and measure of control, if any, by an outside agency on that authority, whether directly or indirectly exercise in the constitution and conduct of the executive branch of the government;
 - Judiciary:* The establishment of courts of law and the selection of judges.
2. *Participation of the population.* Effective participation of the population in the government of the Territory: (a) **Is there an adequate and appropriate electoral and representative system?** (b) **Is this electoral system conducted without direct or indirect interference from a foreign government?**^a
3. *Economic, social and cultural jurisdiction.* Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory; and by the degree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments.

Third part

^a For example, the following questions would be relevant:

- A. (i) Has each adult inhabitant equal power (subject to special safeguards for minorities) to determine the character of the government of the Territory?
- B. (ii) Is this power exercised freely, i.e., is there an absence of undue influence over and coercion of the voter and of the imposition of disabilities on particular political parties?
Some tests which can be used in the application of this factor are as follows:
 1. (a) The existence of effective measures to ensure the democratic expression of the will of the people;
 2. (b) The existence of more than one political party in the Territory;
 3. (c) The existence of a secret ballot;
 4. (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;
 5. (e) The existence for the individual elector of a choice between candidates of differing political parties;
 6. (f) The absence of "martial law" and similar measures at election times;
 7. (g) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day
- (iii) Is each individual free to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day?

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

FACTORS INDICATIVE OF THE FREE ASSOCIATION OF A TERRITORY ON EQUAL BASIS WITH THE METROPOLITAN OR OTHER COUNTRY AS AN INTEGRAL PART OF THAT COUNTRY OR IN ANY OTHER FORM

A. General

Opinion of the population. The opinion of the population of the Territory, freely expressed by informed and democratic processes, as to the status or change in status which they desire.

Freedom of choice. The freedom of the population of a Non-Self-Governing Territory which has associated itself with the metropolitan country as a integral part of the country or in any other form to modify this status through the expression of their will by democratic means.

Geographical considerations. Extent to which the relations of the Territory with the capital of the central government may be affected by circumstances arising out of their respective natural geographical positions, such as separation by land, sea or other obstacles. **The right of the metropolitan country or the Territory to change the political status of that Territory in the light of the consideration whether that Territory is or is not subject to any claim or litigation on the part of another State.**

Ethnic and cultural considerations. Extent to which the population are of different race, language or religion or have a distinct cultural heritage, interests or aspirations, distinguishing them from the peoples of the country with which they freely associate themselves.

Political advancement. Political advancement of the population sufficient to enable them to decide upon the future destiny of the Territory with due knowledge.

Constitutional considerations. Association by virtue of a treaty or bilateral agreement affecting the status of the Territory, taking into account (i) whether the constitutional guarantees extend equally to the associated Territory, (ii) whether there are powers in certain matters constitutionally reserved to the Territory or to the central authority, and (iii) whether there is provision for participation of the Territory on a basis of equality in any changes in the constitutional system of the State.

B. International Status

Legislative representation. Representation without discrimination in the central legislative organs on the same basis as other inhabitants and regions.

Participation of the population. Effective participation of the population in the government of the Territory: (a) Is there an adequate and appropriate electoral and representative system? (b) Is this electoral system conducted without direct or indirect interference from a foreign government?^a

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

Citizenship. Citizenship without discrimination on the same basis as other inhabitants.

Government officials. Eligibility of officials from the Territory to all public offices of the central authority, by appointment or election, on the same basis as those from other parts of the country.

Internal constitutional conditions

Suffrage. Universal and equal suffrage, and free periodic elections, characterized by an absence of undue influence over and coercion of the voter or of the imposition of disabilities on particular political parties.^b

Local rights and status. In a unitary system equal rights and status for the inhabitants and local bodies of the Territory as enjoyed by inhabitants and local bodies of other parts of the country; in a federal system an identical degree of self-government for the inhabitants and local bodies of all parts of the federation.

Local officials. Appointment or election of officials in the Territory on the same basis as those in other parts of the country.

Internal legislation. Local self-government of the same scope and under the same conditions as enjoyed by other parts of the country.

Economic, social and cultural jurisdiction. Degree of autonomy in respect of economic, social and cultural affairs, as illustrated by the degree of freedom from economic pressure as exercised, for example, by a foreign minority group which, by virtue of the help of a foreign Power, has acquired a privileged economic status prejudicial to the general economic interest of the people of the Territory; and by the degree of freedom and lack of discrimination against the indigenous population of the Territory in social legislation and social developments.

Consideration

- C. *Recommends* that the annexed list of factors should be used by the General Assembly and the Administering Members as a guide in determining whether any Territory, due to changes in its constitutional status, is or is no longer within the scope of Chapter XI of the Charter, in order that, in view of the documentation

^b For example, the following tests would be relevant:

- A. (a) The existence of effective measures to ensure the democratic expression of the will of the people;
- B. (b) The existence of more than one political party in the Territory;
- C. (c) The existence of a secret ballot;
- D. (d) The existence of legal prohibitions on the exercise of undemocratic practices in the course of elections;
- E. (e) The existence for the individual elector of a choice between candidates of differing political parties;
- F. (f) The absence of "martial law" and similar measures at election times;
- G. (g) Freedom of each individual to express his political opinions, to support or oppose any political party or cause, and to criticize the government of the day.

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

provided under resolution 222 (III) of 3 November 1948, a decision may be taken by the General Assembly on the continuation or cessation of the transmission of information required by Chapter XI of the Charter;

Reasserts that each concrete case should be considered and decided upon in the light of the particular circumstances of that case and taking into account the right of self-determination of peoples;

Considers that the validity of any form of association between a Non-Self-Governing Territory and a metropolitan or any other country essentially depends on the **freely expressed will of the people at the time of the taking of the decision**;

Considers that the manner in which Territories referred to in Chapter XI of the Charter can become fully self-governing is primarily through the attainment of independence, although it is recognized that self-government can also be achieved by association with another State or group of States if this is done freely and on the basis of absolute equality;

Reaffirms that the factors, while serving as a guide in determining whether the obligations as set forth in Chapter XI of the Charter shall exist, should in no way be interpreted as a hindrance to the attainment of a full measure of self-government by a Non-Self-Governing Territory;

Further reaffirms that, for a Territory to be deemed self-governing in economic, social or educational affairs, it is essential that its people shall have attained a full measure of self-government;

Instructs the Committee on Information from Non-Self-Governing Territories to study any documentation transmitted hereafter under resolution 222 (III) in the light of the list of factors approved by the present resolution, and other relevant considerations which may arise from each concrete case of cessation of information;

Recommends that the Committee on Information from Non-Self-Governing Territories take the initiative of proposing modifications at any time to improve the list of factors, as may seem necessary in the light of circumstances.

459th plenary meeting,
27 November 1953

GA Resolution 1.3

644 (VII). Racial discrimination in Non-Self-Governing Territories
The General Assembly,

Having regard to the principles of the Charter and of the Universal Declaration of Human Rights emphasizing the necessity of promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion,

Having regard to the principle recognized in Chapter XI of the Charter that the interests of the inhabitants of the Non-Self-Governing Territories are paramount,

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

Recognizing that there is a fundamental distinction between discriminatory laws and practices, on the one hand, and protective measures designed to safeguard the rights of the indigenous inhabitants, on the other hand,

1. Recommends to the Members responsible for the administration of Non-Self-Governing Territories the abolition in those Territories of discriminatory laws and practices contrary to the principles of the Charter and of the Universal Declaration of Human Rights;
2. Recommends that the Administering Members should examine all laws, statutes and ordinances in force in the Non-Self-Governing Territories under their administration, as well as their application in the said Territories, with a view to the abolition of any such discriminatory provisions or practices;
3. Recommends that, in any Non-Self-Governing Territories where laws are in existence which distinguish between citizens and non-citizens primarily on racial or religious grounds, these laws should similarly be examined;
4. Recommends that all public facilities should be open to all inhabitants of the Non-Self-Governing Territories, without distinction of race;
5. Recommends that where laws are in existence providing particular measures of protection for sections of the population, these laws should frequently be examined in order to ascertain whether their protective aspect is still predominant, and whether provision should be made for exemption from them in particular circumstances;
6. Recognizes that the establishment of improved race relations largely depends on the development of educational policies, and commends all measures designed to improve among all pupils in all schools understanding of the needs and problems of the community as a whole;
7. Calls the attention of the Commission on Human Rights to the present resolution.

402nd plenary meeting,
10 December 1952

Exhibit 2

**UKASE OF SEPTEMBER 13, 1821, RENEWING
PRIVILEGES OF THE RUSSIAN-AMERICAN COMPANY**

SECOND CHARTER OF THE RUSSIAN AMERICAN COMPANY

By His Imperial Majesty's Ukase, bearing his signature, and communicated to the Ruling Senate on the 13th day of September, of the year 1821, it is decreed:

"The Russian-American Company, under our protection, availing itself of the privileges conferred upon it by Imperial Decree in the year 1799, has completely fulfilled what we expected of it, by its success in navigation, by what it has come to develop the trade of the Empire, to the benefit of all, and by securing considerable profits to those who are

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

directly interested in it. In consideration whereof being desirous of prolonging its existence and establishing it yet more firmly, we hereby renew the privileges granted to it, with the necessary additions and modifications, for a period of twenty years from this date, and having sanctioned the new Regulations drawn up for it, hand this over to the Ruling Senate, commanding them to prepare the necessary document setting forth these privileges, to lay it before us for our signature, and to take the proper further steps in the matter.”

PRIVILEGES GRANTED TO THE RUSSIAN-AMERICAN COMPANY FOR TWENTY YEARS FROM THIS DATE

- I. The Company founded for the exercise of the exercise of industries on the main land of Northwestern America, and on the Aleutian and Kurile Islands shall be, as heretofore, under the protection of His Imperial Majesty.
- II. It shall have the privilege of carrying on, to the exclusion of all other Russians, and of the subjects of foreign States, all industries connected with the capture of wild animals and all fishing industries, on the shores of North-western America which have from time immemorial belonged to Russia, commencing from the northern point of the Island of Vancouver, under 51 degrees north latitude, to Behring Straits and beyond them, and on all the islands which belong to that coast, as well as on the others situated between it and the eastern shore of Siberia, and also on those of the Kurile Islands where the Company has carried on industries, as far as the southern extremity of the Island of Urup under 45 degrees 50’.
- III. It shall have the exclusive enjoyment of everything in that region which it has hitherto discovered, or which it may in future discover, either on the surface of the earth or in the earth.
- IV. The Company may make discoveries within the limits defined above, and it is authorized to annex such newly discovered places to the Russian dominions provided they have not been occupied by any other European nation, or by citizens of the United States, and have not become dependencies of such foreign nation: but the Company may not form permanent settlements in such places unless authorized to do so by the Emperor.
- V. Within the limits defined in section 2, the Company is authorized to found new settlements, and to construct works of defence at any point, should such be necessary, at its own discretion, and to enlarge and improve existing settlements or works of defence: it is permitted to send ships with men and merchandize to those places without hindrance.
- VI. In order to insure to the Company the enjoyment of the exclusive rights granted to it, and to prevent for the future any interference or damage to it arising from the action of Russian subjects or of foreigners, Regulations are now drawn up regarding the manner in which those persons are to be dealt with who, either voluntary or under stress of circumstances, come to the places defined in section 2 of these privileges, in spite of the fact that they are prohibited from coming to them, by those authorities whom they may concern.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report

VII. The Company is authorized to communicate by sea with all neighboring nations and to trade with them, with the consent of their Governments except in the case of the Chinese Empire, the shores of which the Company's ships are never to approach.

In regard to other nations, the Company's ships shall not have trade or other relations with them against the wish of their Governments.

[Extract from enclosure in Mr. Wilkins' No. 16 of December 11, 1835]

III. In regard to those nations inhabiting the coasts of America, where the Company has established their Colony.

SECTION 57. The company, whose principal object is the catching of Sea-animals and wild beasts, shall not extend their searches to this effect to the interior of those Countries, on which coasts they practice the above catchings, and shall by no means meddle with oppression of the inhabitants, living along those coasts; and in case the Company should think it for their interest, to establish factories in some places of the American Continent in order to secure their commerce, they may do so after having acquired the consent of the Natives and shall do everything in their power to maintain their arrangements and avoid everything that might create the suspicion or thought as if they intended to deprive them of their independence.

SECTION 58. The Company is prohibited to demand gifts, dues, tribute or any such sacrifice from these people, equally during the time of peace, not to take any of the sacrifice from these people, equally during the time of peace, not to take any of the inhabitants by force out of their stock, if, agreeably to the existing custom, some will be delivered by their *Amanitas*. These inhabitants delivered to the Colony shall be properly treated and maintained, and the directors shall take particular care that they be not offended.

SECTION 59. In case it happens, that some of the Natives of the American Coast should wish to put up in the Russian Colonies, the Company shall grant their request if no danger is likely to arise from it to the Colonies. The new settlers shall be enregistered in the number Islanders and shall enjoy the same rights and privileges as those.

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report
Indigenous Peoples and Nations Coalition

P.O Box 111

Dillingham, Alaska 99576

Tel: (907) 842-4789 Fax: (907) 842-4789

E-mail rfbipnc@hotmail.com

Exhibit 3.1 Human Rights Committee Shadow Report 2006

DIPLOMATIC PROTEST

60th Commission on Human Rights

Item 5: The right of peoples to self-determination and its application to peoples under colonial or alien domination or foreign occupation.

Friday 19 March 2004

Ambassador Ronald Barnes

This intervention is associated with the supporters of the Indigenous Peoples and Nations Coalition and Na Koa Ikaika O Ka La Hui from Alaska and Hawaii that yearn for our freedom and self-determination.

Camei distinguished Members of the Commission on Human Rights and all distinguished Participants and Congratulations Ambassador Smith on your election as Chair of the 60th Commission on Human Rights. I wish all of you the very best at this 60th session. This intervention serves as a diplomatic protest against the subjugation, domination and exploitation and of the illegal annexation of Alaska and Hawaii.

Alaska and Hawaii were placed on the list of non-self-governing territories¹⁸ and removed from the list in 1959¹⁹, about 40 years ago, which in political time is yesterday. Hawaii was a fully independent State and United States denied that the territory of Northwest Coast (Alaska) was under Tsarist Russian title and dominion and recognized the Tribes as independent²⁰ from any other foreign nation using the Law of Nations.

¹⁸ General Assembly Resolution 66(I) of 14 December 1946

¹⁹ General Assembly Resolution 1469 on the 12 December 1959

²⁰ Senate Document Number 384 of the 18th Congress, 2d Session, 1824 from the diplomatic communication entitled Confidential Memorial; The following are excerpts from the diplomatic communications: From these facts, incontestably proved by historical documents, an irresistible conclusion follows, which agrees with the declaration of Russia, in 1790; and it ought to appear definitive that she had not right to claim, either under the title of discovery or of possession, on the continent east or south of Behring's Strait, about the 60th degree north latitude. *** The conclusion which must necessarily result from these facts does not appear to establish that the territory in question has been legitimately incorporated with the Russian empire. *** That on the supposition that the natives of the country should be found under the jurisdiction of Russia, the United States would have only to abandon their merchants to the penalties incurred by those who carry on a contraband trade in a foreign jurisdiction; that if, on the contrary, the natives ought to be regarded as independent tribes, Russia could not prohibit foreigners from trading with them unless in contraband of war and in time of war; in which case she can herself put in execution the prohibition on the open sea.

Indigenous Peoples and Nations Coalition Human Rights Committee Shadow Report

The independently recognized indigenous peoples of Alaska have yet to be decolonized²¹. The clear violation of *inter alia*, the Articles 1, 2, 55, 56, 73 and 74 of the Charter of the United Nations needs specific attention of the 60th Commission on Human Rights. The American military and its citizens were allowed to vote and create the state of Alaska²². The independent tribes did not consent to annexation²³. The United States as an Administering Power devised a political regime based upon principles of racial superiority and religious discrimination known today as the state of Alaska.

The therefore racist political regime state of Alaska, and the racially contrived political subdivision of the United States – state of Alaska violated the Charter of the United Nations. For example note that Article 12 Section 12 of the state of Alaska constitution denies it can encroach upon property belonging to the Eskimos, Indians and Aleutes and cannot so much as tax us²⁴. The “*disposition*” in this Article, of the United States of

²¹ According to S. Hasan Ahmad, M.A., Ph.D. 1974 in his book The United Nations and the Colonies Professor S. Hasan Ahmad points out that 1) the situation in the territories was not examined in sufficient detail and 2) the people of the territory were not granted the right to petition to the United Nations and 3) the agencies responsible for examination did not study the change in the political condition and the status in the territories.

²² In violation of among other factors and principles in GA Resolution 742 (VIII) 27 November 1953, the United States had 41,000 military in Alaska and many dependents that were allowed to vote on August 26, 1958 to annex Alaska into the United States. The vote was about 40,000 for and 8,000 against. The transient citizens of the United States were also allowed to vote. The majority of the Indigenous Peoples were subject to 500 dollars fine, six months in jail or both if they attempt, based on a law requiring that voters be able to read, write and speak English. The legislative history clearly indicates this legislation was created to curtail of the vote of the Eskimos, Indians and Aleuts in Alaska. See the United Nations document HR/GENEVA/TSIP/SEM/2003/BP.21.

²³ The United States imposed the Johnson v. McIntosh (8 Wheat. 543 (1823) case and the Tee-Hit-Ton v. United States (348 U.S. 272(1955) to determine that we were never recognized and the land therefore belonged to the white race. In the United Nations report E/CN.4/Sub.2/2001/21 entitled *Indigenous Peoples and their relationship to land*, the Special Rapporteur Mrs. Erica-Irene A. Daes, gave an account in paragraphs 41 to 44 of the extremely racial character of the case. The Special Rapporteur also reported that the Indigenous Peoples of Alaska did not consent to the any legislation imposed by the United States Congress.

²⁴ State of Alaska Constitution - Article 12 Section 12. DISCLAIMER AND AGREEMENT. The State of Alaska and its people forever disclaim all right and title in or to any property belonging to the United States or subject to it disposition, and not granted or confirmed to the State or its political subdivisions, by or under the act admitting Alaska to the Union. The State and its people further disclaim all right or title in or to any property, including fishing rights, the right or title to which may be held by or

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

America is clear: Alaska belongs to the independent tribes as they are fully recognized by the United States of America with title and dominion. Mr. Chairman, It was you Government, Australia, that denied to the Netherlands the right to invoke Article 2 paragraph 7 of the Charter of the United Nations, the non-interference principle and the territorial integrity principle for violations of the factors and principles in the administration of Indonesia as a non-self-governing territory²⁵.

As far as I am concerned Mr. Chairman, we have never been properly annexed by the United States of America and due to the recognition of us as "independent tribes inhabiting and independent territory" from Russia, we have every right to claim our independent status or choose our level of relationship with other States. You will find the Act of State in United Nations document HR/GENEVA/TSIP/SEM/2003/BP.21, the paper submitted to the Seminar on Treaties, Agreement and Constructive Arrangements in December of 2003. Can the United States of America prove that they justifiably annexed us under principles of racial and religious discrimination in violation of the Charter of the United Nations and already accepted principles of international law? Can the United States grant to its military and its white American citizens as determined in the 1955 Supreme Court case United States v. Tee-Hit-Ton Indians (348 US 272). How can a foreign court expropriate land that admittedly belong to a foreign peoples be allocated by a foreign court simply because you are white?

Mr. Chair and Members of the Commission

The Indigenous World Association is calling for a complete review of that lead to General Assembly Resolution 1469 and to review the historical, legal and political relationship of Alaska with Tsarist Russia and the United States and of Hawaii with the United States. We need a Special Rapporteur and United Nations agencies to examine the absolute title rights of the Indigenous Peoples of Alaska and finally, examine the factors, principles and lack of procedure that was denied to the Indigenous Peoples of Alaska and Hawaii. The United Nations Commission on Human Rights must call for an immediate freeze on the expropriation of the lands and resources in Alaska and Hawaii.

Thank you Mr. Chairman

for any Indian Eskimo, or Aleut, or community thereof, as that right or title is defined in the act of admission. The State and its people agree that, unless otherwise provided by Congress, the property, as described in this section, shall remain subject to the absolute disposition of the United States. They further agree that no taxes will be imposed upon any such property, until otherwise provided by the Congress. This tax exemption shall not apply to property held by individuals in fee without restrictions on alienation.

²⁵ UN and Domestic Jurisdiction by M. S. Rajan 1958, (See the Chapter on Non-Self-Governing Territories and The Indonesian Question)

Indigenous Peoples and Nations Coalition
Human Rights Committee Shadow Report
Indigenous Peoples and Nations Coalition

P.O Box 111

Dillingham, Alaska 99576

Geneva mobile 079 541 9430

E-mail rfbipnc@hotmail.com

Exhibit 3.2 Human Rights Committee Shadow Report 2006

DIPLOMATIC PROTEST

61st Commission on Human Rights
Item 10: Economic, Social and Cultural Rights
Thursday 31 March 2005
Ambassador Ronald Barnes

Camai - distinguished Chair and Members of the Commission. We continue our diplomatic protest against the subjugation, domination and exploitation of Alaska and Hawaii by the United States of America.

In a Solicitors Opinion on February 13, 1942, the Solicitor held that the fishing rights of Alaska Indigenous Peoples were never extinguished either by the Russians or the United States of America²⁶. A more careful analysis of the situation would reveal that the Alaska First Nations were recognized as independent and not part of the Russian Empire. The United States of America flatly denied that the Tsarist Monarchy could regulate commerce and trade against any foreign nation²⁷. This level of recognition therefore

²⁶ FISHING RIGHTS OF ALASKAN INDIANS

M-31634

February 13, 1942.

Synopsis of Solicitor's Opinion

Re:

Fishing rights of Alaskan Indians.

Held:

1. Aboriginal occupancy of particular areas of water or submerged land creates legal rights which, unless they have been extinguished, the Department is bound to recognize.
2. Such rights were not extinguished by Russian sovereignty or action taken thereunder.
3. Such rights have not been extinguished by the sovereignty of the United States or by any treaty, act of Congress, or administrative action thereunder.
4. With respect to areas which may be shown to have been subject to aboriginal occupancy, regulations permitting control by non-Indians would be unauthorized and illegal.

The Honorable,
The Secretary of the Interior.

^{27 27} Senate Document Number 384 of the 18th Congress, 2d Session, 1824 from the diplomatic communication entitled Confidential Memorial; The following are excerpts from the diplomatic communications: From these facts, incontestably proved by historical documents, an irresistible conclusion follows, which agrees with the declaration of Russia, in 1790; and it ought to appear definitive that she had not right to claim, either under the title of discovery or of possession, on the continent east or south of Behring's Strait, about the 60th degree north latitude. *** The conclusion which must necessarily result from these facts does not appear to establish that the territory in question has been legitimately incorporated with the Russian empire. *** That on the supposition that the natives of the country should be found under the jurisdiction of Russia, the United States would have only to abandon their merchants to the penalties incurred by those who carry on a contraband trade in a foreign jurisdiction; that if, on the contrary, the

Indigenous Peoples and Nations Coalition

Human Rights Committee Shadow Report

demands that under Article 1 of the Convention on Economic, Social and Cultural Rights, the Charter of the United Nations and international law, that the United States of America cannot reduce our status to the discriminating Federal Indian Law²⁸ or allow for a settlement under the domestic law of the United States of America.

The United States of America and the state of Alaska are attempting to invent a new relationship by a process called regionalization for the Alaska First Nations. This will attempt to, *inter alia*, make a super non-profit and turn the Alaska Native Claims Settlement Act 13 regional corporations into tribal Governments. The majority of the Traditional Indigenous institutions in Alaska are rejecting this.

This applies to the Kingdom of Hawaii and the Kanaka Maoli peoples. The more than 30 international treaties with countries such as Great Britain, the United States of America, Switzerland and others makes it more pressing that the independent relationship and the international trade relations and recognition be invoked. The right to development in association to the land and resources is being denied. This continues to result in poverty, ill health and tragic statistics due to the denial of self-determination and freely pursue economic development.

The application of the « à la carte » principle in the elaborating an Optional Protocol for the Convention on Economic, Social and Cultural Rights will allow for states to pick and choose where it is most appropriate to discriminate. In this regard, the racist denial of right of self-determination of Indigenous Peoples in direct relation to our lands, territories and resource will make discrimination more universal, interdependent and interrelated than human rights and dignity itself. The deliberate omission is an attempt to reduce the scope and application of the right to self-determination as it applies to lands territories and resources in the Draft United Nations Declaration on the Rights of Indigenous Peoples, and to deny recognition and protection as a rights based approach.

We call upon the 61st Commission on Human Rights to address the unresolved question of absolute title and dominion for the Alaska and Hawaii situations and to adopt the provisions of the Declaration on the Rights of Indigenous Peoples without reducing the needed protections for our right to survive.

Thank you Mr. Chairman

natives ought to be regarded as independent tribes, Russia could not prohibit foreigners from trading with them unless in contraband of war and in time of war; in which case she can herself put in execution the prohibition on the open sea.

²⁸ The United States imposed the Johnson v. McIntosh (8 Wheat. 543 (1823) case and the Tee-Hit-Ton v. United States (348 U.S. 272(1955) to determine that we were never recognized and the land therefore belonged to the white race. In the United Nations report E/CN.4/Sub.2/2001/21 entitled *Indigenous Peoples and their relationship to land*, the Special Rapporteur Mrs. Erica-Irene A. Daes, gave an account in paragraphs 41 to 44 of the extremely racial character of the case. The Special Rapporteur also reported that the Indigenous Peoples of Alaska did not consent to the any legislation imposed by the United States Congress.

Exhibit 4

Page 1 of 8

**Declaration of Absolute Title, Request for Information and Freedom of Information
Act Request
"NON-NEGOTIABLE"**

5/30/2000

Timely, Private and Official Declaration of Absolute Title, Request for Information and Freedom of Information Act request to determine, Nunc Pro Tunc, the nature and cause of presumptions, actions, and plans, with **Notice of Defective Title, Mandatory Judicial Notice that must be part of any Judicial Proceeding, Notice of Default regarding the letter and request of 1/19/2000 and with Affidavit in Verification**

From:

Ambassador Ronald F. Barnes
c/o box 716
Dillingham. Near [99576]
Alaska, Nunavut

To:

The City of Dillingham (CITY OF DILLINGHAM) and any and all officials relating to the said entity, individually and collectively, doing business as The City of Dillingham (THE CITY OF DILLINGHAM), any and all entities, agents, officers or assigns in all jurisdictions attached to this problem before, now, or in the unseen future. All shall be known as Respondents.
141 Main Street P.O. Box 889 Dillingham, Alaska 99576

The UNITED STATES; the United States; THE UNITED STATES OF AMERICA; the United States of America; UNITED STATES PRESIDENT; United States President; UNITED STATES PRESIDENT WILLIAM JEFFERSON CLINTON; United States President William Jefferson Clinton; UNITED STATES SECRETARY OF STATE, United States Secretary of State, United States Secretary of State Madeline Albright; ET AL; Et al.; and all parties not mentioned who are involved in all jurisdictions. All shall also be known in this as Respondents.

NOTICE OF DEFECTIVE TITLE

This Request also serves as a **Notice of Defective Title** for all the land now know as "Alaska" including but not limited to the land involved in the Respondents plans for which the United States occupies in a State of belligerent occupation. This **Notice of Defective Title** is presented to refute the quitclaim deeds promulgated by the United States (UNITED STATES) and its political sub-divisions in an attempt to separate the land from the autochthonous peoples (peoples from the land), who are decedents of the original inhabitants and stewards of the land. A **quitclaim deed** is nothing more than, "A deed of conveyance operating by way of release; that is, intended to pass any title, interest

**Declaration of Absolute Title, Request for Information and Freedom of Information
Act Request**

or claim which the grantor may have in the premises, but not professing that such title is valid, nor containing warranty or covenants for title." (Black's Law Dictionary, 6th Edition, page 1251.) The decedents of the original inhabitants have right of possession, have actual possession, and right of title by way of inheritance from antecedent owners, and by inheritance from the Creator and the Creator's laws of nature.

NOTICE OF DEFAULT

This also serves as a notice of default for the letter received by the Respondents on 1/19/2000 for which there was no proper reply.

To all distinguished parties and their servants and all concerned:

I, Ambassador Ronald F. Barnes, herein called Requester, am one of the so-called "uncivilized inhabitants" referred to in the memorandums of the 1867 Treaty of Cession between Tsarist Russia and the United States. The Traditional governments and the Indigenous Peoples of the region of Alaska have not properly ceded any jurisdiction to the United States, the UNITED STATES, or any of its political sub-divisions thereof.

I assert that the presence of Tsarist Russia in Alaska was temporary, and such presence did not constitute title and dominion on the part of Tsarist Russia. I refer to the Charter of 1844, which were rules governing the Russian merchants in Alaska: Section 283. "The Company shall be prohibited from demanding from these people tributes, taxes, or donations of any kind whatever and, in times of peace, shall not forcibly take any of them away from their own race, save only the hostages given under the usage heretofore existing."

By your own admission, Russia did not have title and dominion:

United States President James Monroe refuted Russian title and dominion to Alaska in confidential diplomatic memoranda to the Tsar of Russia in 1822. In the process of refuting Russian title and dominion President Monroe referred to the Indigenous Peoples of Alaska as "independent tribes inhabiting an independent territory". You, the United States did this in order to prevent Tsarist Russia from gaining a trade monopoly with China, which at the time, the continuing open trade with the Indigenous Peoples of Alaska was very lucrative for your citizens. Secretary of State John Quincy Adams under the administration of United States President Monroe used the treatise Law of Nations by Vattel in order to justify the recognition and the standing among of the Indigenous Peoples of the region of Alaska among the law of nations.

In a recent United Nations press release HR/SC/99/4/Rev.1, the content on page 3 reads as follows: RONALD BARNES, of the Indigenous World Association, said independent tribes inhabiting and independent territory from Alaska should be granted independent status by the United States. There had been a discovery of documents prior to the 1867 Treaty of Cession, which clearly refuted Russian title and dominion to Alaska. The

Declaration of Absolute Title, Request for Information and Freedom of Information Act Request

United States Congress in 1824 had discussed a set of diplomatic communications that gave the historical and legal reasons why Russia had not acquired absolute title to Alaska. Further, in these memoranda, the United States fully recognized that the indigenous peoples of Alaska were independent tribes inhabiting independent territory.

This series of confidential diplomatic memoranda from the United States to Russia was exchanged less than 50 years prior to the so-called 1867 Treaty of Cession. The revelation of this information was very significant since the indigenous peoples of Alaska were only a third party to the treaty. Therefore, the indigenous peoples of Alaska were not legally bound to admit to the treaty. Russia had had no right to sell Alaska to the United States since the absolute title was recognized to be in the dominion of the indigenous peoples of Alaska.

Further, according to E/CN.4/Sub.2/1999/SR.3, paragraph 15, Mr. Barnes (Indigenous World Association) gave an account of the violations of the human rights of the independent tribes and indigenous peoples of Alaska which had been subjugated, dominated and exploited by an administering Power entrusted with bringing them to self-determination. They had not been a party to nor had they participated in the removal of Alaska from the list of non-self-governing territories in 1959. Where they had attempted to participate, they had been subjected to fines or imprisonment or both if they could not read, write or speak English; the United States military and the transferred population had been allowed to vote, and the independent tribes and indigenous peoples had not even been fully informed regarding their annexation by the United States of America.

According to this "Report of the Working Group on Indigenous Populations on its sixteenth session (Geneva, 27-31 July 1998) E/CN.4/Sub.2/1998/16", it has become apparent that our right to self-determination has been violated: *"In addition, representatives of the indigenous peoples of Alaska reported that United Nations resolutions on non-self-governing territories aiming at the educational advancement and the promotion and protection of the rights of indigenous peoples, participation and development had not yet been fully implemented."*

Now that this information has come forward what are you willing to do about it? Aggression is not the answer. The internal revenue laws cannot apply in foreign territory to foreign citizens.

According to your own laws, revenue statutes are enforceable only when the taxing authority has jurisdiction over the taxpayer, his property, or his income. The Constitution has made no provision for holding foreign territory, still less for incorporating or annexing foreign nations into the Union of the United States and foreign institutions without the freely and informed consent of the peoples who are recognized with the title and dominion.

Do you have any provision for taxation of a *State of Peoples* under a state of *belligerent occupation* in their own country without their freely informed consent?

Declaration of Absolute Title, Request for Information and Freedom of Information Act Request

Even if you consider the 1867 Treaty of Cession to be valid (**I do not**) you cannot take our property without our fully and freely informed consent. As an administering Power you have become a super abuser, instead of protectorate. Our right to our property is absolute to our Indigenous Nations in Alaska.

You have imposed dual citizenship upon the Indigenous Peoples of Alaska without our freely informed consent via the U.S. 1924 Indian Citizenship Act. Where is my consent to impose laws upon our peoples in the region of Alaska?

Did you get the full and freely informed consent of the Indigenous Peoples of Alaska to annex or incorporate the region of Alaska?

Can you produce *evidence of title* for the region of Alaska or the Northwest Territories? By what means did you acquire title? From whom did you acquire title? Was the proper authority or agency involved? Did you acquire proper title and dominion to the territory? **You do need to answer all of these questions in order to establish your jurisdiction to tax the Indigenous Peoples in the region of Alaska.**

Ambassador Ronald F. Barnes, hereinafter called "Requester" is coming forth with a presentment to question the authority of the United States of America, UNITED STATES (Incorporated), The State of Alaska, THE STATE OF ALASKA (Incorporated) and all its so-called political sub-divisions in a timely manner in the what is now known to be the independent Territory of Nunavut, and all that is known as Alaska, but not limited thereto.

Take "Express Notice" that: **The State of Alaska (THE STATE OF ALASKA)** is a so-called political subdivision of **The United States (THE UNITED STATES)**.

Is this "one nation under God", or do you operate from other venues that have not been presented or made aware of to the Requester?

Is the United States (UNITED STATES) aware that the Indigenous People of Alaska were recognized in the United Nations and therefore by the United Nations Charter? Does the United States (UNITED STATES) in all of its political and legal venues recognize the peremptory norms of international law *jus cogens*?

Are you aware that there are constitutional questions regarding the legality of the State of Alaska (STATE OF ALASKA) and its political sub-divisions enacting statutes and ordinances that are in conflict with the organic Constitution of the United States of America?

By what contract did Tsarist Russia acquire title to Alaska? How could Tsarist Russia convey title when the Indigenous Peoples were recognized to have title and dominion to

Declaration of Absolute Title, Request for Information and Freedom of Information Act Request

Alaska? Where did Tsarist Russia get their authority, if any, in Alaska to govern the Indigenous Peoples and the Independent Tribes?

Where do you get your authority to tax? Do the peremptory norms of international law jus cogens apply, if they do not, how did you acquire absolute title and dominion to govern in Alaska? Did the United States (UNITED STATES) acquire title and dominion, if so, how?

Does Genocide and Apartheid apply? Given the nature of problem, if you believe Genocide and Apartheid do not, how can you exclude those crimes?

Did the United States of America, UNITED STATES (Incorporated), the State of Alaska (STATE OF ALASKA) have a UCC 3-501 presentment with the Requester's signature thereon, which requires performance? If the Answer is "yes", provide presentment, identification, and authority. Isn't it true that under UCC 3-501, payment need not be tendered until presentment has been made?

Does the Above Case set forth the claim that Requester herein has a signature on any instruments upon which Requester has any legal or equitable duty with respect to, the United States of America and the UNITED STATES (Incorporated)? If the answer is "yes", please provide. Then, is there an implicit contract without full disclosure to the details of the contract without my knowledge?

How did the Indigenous Peoples in the Territory or region of Alaska become obligated to abide by or fall under the organic Constitution of the United States of America?

Does the organic Constitution of the United States of America give the United States (UNITED STATES), The States of Alaska (STATE OF ALASKA) the authority to annex, expropriate or incorporate Territory as a State into the Union of the United States of America when the absolute title has not been established to the United States of America in the region of Alaska? Where in the organic Constitution of the United States of America or any part of the government is this allowed?

Who created the boundaries of what is now known as Alaska? Were all proper parties involved in the dispute including all international legal personalities involved? Were all parties fully informed in the proper languages and did all parties consent?

What authority did you have in order to establish the boundaries without the fully informed and expressed consent of the Indigenous Peoples of Alaska?

Are you aware that the erroneous construction of treaties or statutes makes them null and void? Does this exclude Indigenous Peoples? Please explain.

Are you aware that the United States Supreme Court has held that public officials, local governments, their functionaries, agents, public officials and officers can be sued directly

Declaration of Absolute Title, Request for Information and Freedom of Information Act Request

under 42 U.S.C.A., section 1983 for monetary, declaratory, or injunctive relief where "the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers"?

Are you aware that there is no statute of limitations for crimes against humanity, war crimes or war crimes perpetrated in a time of peace?

If you can tax my Nunavut peoples or property, does that mean you own everything/anything I have? How did you gain title to it without my fully informed consent? At any and all levels of government, can you justify taxation without proper representation?

Are you aware that the Indigenous Tribes and that the Indigenous Peoples of Alaska were recognized as having title and dominion to the Alaska region?

Did the United States (UNITED STATES) always recognize title and dominion of Alaska to be in Tsarist Russia?

I reserve my right to amend or add anything to this document.

Do you agree with the Doctrine of Manifest Destiny, with racial discrimination?

Is the Doctrine of Manifest Destiny considered to be a part of the policy and divine intervention of the United States (UNITED STATES) and all its political sub-divisions, its officers, its agencies, its apparatchiks/functionaries, and assigns at any and all levels of government? Is this doctrine (program) used to alienate, subjugate, or dominate Indigenous Peoples in any way, shape or form?

Are you aware that the Alien Tort Statute, 28 U.S.C., section 1350 provides: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States"? Can you properly assert your laws over foreign peoples in foreign territory? Does only the occupying Government have jurisdiction? Does any or all of that only apply to all foreign citizens or can those of us under belligerent occupation seek remedy?

Are you aware that I reserve all my rights without any prejudice due to this document? **I do reserve all my rights without prejudice!**

Failure by the Respondent to timely respond to this **Request for Information and Freedom of Information Act** request as seasonably requested will be construed as an attempt by Respondent to withhold full disclosure of the nature and cause of the Respondents presumptions, actions, and plans for the continuing machinations to deprive the autochthonous peoples, and it will make it impossible for the Requesters to

Declaration of Absolute Title, Request for Information and Freedom of Information Act Request

meaningfully respond to, traverse to, or defend against any accusation(s) made, or process issued or caused to be issued by the Respondent.

Notice: Further, failure to provide true, accurate and complete answers to every question in this Request for Information and Freedom of Information Act request shall be construed as a failure to support or defend the position of the United States, THE UNITED STATES, and all parties listed as this is addressed to.

Notice: If I do not hear from you within 10 working days from the receipt of this letter answering ALL, then I will presume that you have no lawful authority to tax Requester, assert dominion and authority in any, way, shape or form to/over my non-treaty Nunavut real human being. The Respondent(s) must respond by affidavit, true correct, and complete under penalty of perjury, on a point by point basis to the contents hereof, or else said facts and conclusions of law stated herein this and pertaining to this Request for Information and Freedom of Information Act request shall become the ultimate facts in any controversy between the Respondent(s); and the Requester.

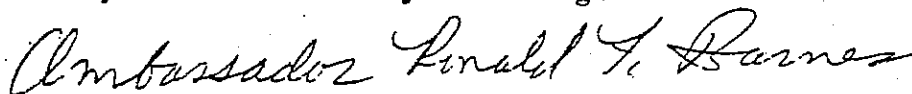
Notice: Your response to be valid, must be served upon the Requesters EXACTLY as follows:

Ambassador Ronald F. Barnes
c/o box 716
Dillingham. Near [99576].
Alaska, Nunavut

Respectfully requested this 30th day of the 5th month in the Year of our Lord two thousand.

With due regard,

Ambassador Ronald F. Barnes
Non-Treaty Nunavut real one: **Sui juris: Jus Cogens.**



This is a true and correct copy. Copyright 2000

c.c.
Executive Office of the President
United States Secretary of The State
United States Attorney General
Governor, STATE OF ALASKA
Attorney General, STATE OF ALASKA

**Declaration of Absolute Title, Request for Information and Freedom of Information
Act Request**

United Nations, Secretary General
Tununak Traditional Elders Council
Chief Marie Smith-Jones
Chief Gary Harrison
His Holyness, Pope John Paul II
Her Majesty, Queen of England
Et al

EXCLUDING CERTAIN LANDS FROM TONGASS NATIONAL FOREST
ALASKA

By virtue of and pursuant to the authority vested in me by the act of June 4, 1897 (30 Stat. 11, 36; 16 U. S. C. 473), and upon the recommendation of the Secretary of Agriculture, it is ordered that the tract of land on the north shore of Tenakee Inlet, Chichagof Island, Alaska, lying within the following-described boundaries and occupied as an Indian settlement, be, and it is hereby, excluded from the Tongass National Forest:

Chs. Beginning at corner no. 1, meander corner, at the line of mean high tide on the north shore of Tenakee Inlet and approximated one-half mile east of the town of Tenakee. Corner not set on account of danger of destruction by tides and storms.

Thence N. 64° W.

0.92 to witness corner no. 1, meander corner, a hemlock stake 6 in. by 7 ft. marked "elimination Cor. 1 W. C. M. C."

Whence a 24-in. spruce tree, blazed and scribed "W. Cor. 1 W. C. M. C.", bears N. 53° W., 0.15 chs.

12.00 Tenakee Trail.

28.83 to corner no. 2, same being common with corner no. 3 of survey 2095.

Thence south

4.91 to witness corner no. 3, meander corner, same being common with witness corner no. 2 of survey 2095.

5.05 Tenakee Trail.

5.41 to corner no. 3, meander corner, not set on account of danger of destruction by tides.

Thence by meander at line of M. H. W. along shore of Tenakee Inlet

- (1) S. 76° E., 3.30 chs.
- (2) S. 66½° E., 5.00 chs.
- (3) S. 44½° E., 7.60 chs.
- (4) S. 29½° E., 7.00 chs.
- (5) S. 80° E., 3.20 chs.
- (6) N. 33° E., 7.50 chs.
- (7) N. 53° E., 2.65 chs.

to corner no. 1, meander corner, the place of beginning, containing 16.71 acres, more or less.

FRANKLIN D ROOSEVELT

THE WHITE HOUSE,

September 6, 1935.

Exhibit 6

**Alaska Inter-Tribal Council
Resolution # 2005-10**

TITLE: A resolution requesting that AITC assemble a Conference to address the Legal and Political Rights of the Indigenous Peoples of Alaska.

WHEREAS, the Alaska Inter-Tribal Council (AITC) is a statewide consortium of sovereign tribes sharing a common bond of unique cultures, languages, spirituality, and traditional values, established in 1992 to advocate for the inherent rights of tribes in Alaska, and

WHEREAS, it is necessary to reaffirm, as the first inhabitants, the integrity of our time immemorial possession to our bio-regional kinship related territory belonging to the Traditional Indigenous Governments of the Indigenous Peoples of Alaska; and

WHEREAS, the Indigenous peoples of Alaska are historically recognized under the law of nations and international law, inter alia, through 1) the 1822 diplomatic response by Secretary of State John Quincy Adams to Tsar Alexander's claim to the northwest coast of North America (Alaska), that denied Russia acquired Alaska as part of the Russian Empire and 2) that Alaska was listed under Article 73 of the Charter of the United Nations, Chapter XI, Declaration Regarding Non-Self-Governing Territories in General Assembly Resolution in 66(1) in 1946; and

WHEREAS, it is necessary to promote and support the Traditional Tribal Governments and the indigenous Peoples of the Alaska region as holders of the title and dominion and therefore the proper agents and authorities to quiet title and dominion; and

WHEREAS, we affirm that the proper agents and authorities have never consented to ceding our right to self-determination to our territory and natural resources under international law; and

WHEREAS, the traditional Indigenous Governments are confronted with the mounting pressures of violations of their fundamental rights of our peoples to their dominion, property and way of life including inter alia, their right of self-determination to their territory and resources; and

WHEREAS, the violations of the human rights and fundamental freedoms and right to self-determination are the result of unresolved conflicts between the Indigenous Peoples of Alaska and the colonial powers; and

WHEREAS, the fundamental principles of "consent of the governed" and "taxation without representation" are among the many principles adopted by the United States of America in their Declaration of Independence and other founding documents; and

WHEREAS, the Alaska Inter-Tribal Council recognizes the interventions and efforts of the Indigenous Peoples and nations Coalition and the Indigenous World Association that raise awareness of our status and, that protest against the wrongful acts committed against the Indigenous Peoples of Alaska; and

WHEREAS, we acknowledge that the deliberations on the text of the United Nations Draft Declaration on the Rights of Indigenous Peoples are being negotiated in Geneva, Switzerland.

NOW, THEREFORE BE IT RESOLVED, that the Alaska Inter-Tribal Council does hereby support the full review of the legal and political rights of the Indigenous Peoples of Alaska with the aim of addressing the unresolved violations of our rights; and

BE IT FURTHER RESOLVED, that no authority or authorization is given to reduce the already recognized right to self-determination or the right to the territory and resources of the Indigenous People of Alaska at any international function including at the deliberations concerning the United Nations Draft Declaration on the Rights of Indigenous Peoples; and

BE IT FURTHER RESOLVED, that the Alaska Inter-Tribal Council determines that it will collaborate with the proper agents and authorities of the Indigenous Peoples of Alaska, the Indigenous Peoples and Nations Coalition and the Indigenous World Association for the purpose of collaborating or contributing to the Working Groups, special Rapporteurs, thematic studies and other appropriate activities or bodies of the United Nations to preserve, protect and pursue the rights of our Indigenous Peoples; and

BE IT FURTHER RESOLVED, that the Alaska Inter-Tribal Council calls upon all parties to come together in a conference in 2006 to address the unresolved conflicts resulting from the violations of our legal and political status, including the violations of our human rights under international law; and

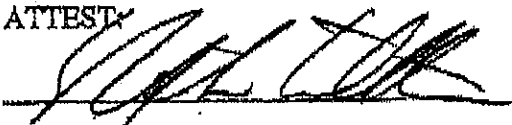
BE IT FINALLY RESOLVED, that this resolution shall be the policy of AITC until it is withdrawn or modified by subsequent resolution.

CERTIFICATION

The foregoing resolution was adopted at the 2005 Annual Convention of the AITC held at the Coast International Inn, in Anchorage, Alaska on December 7, 2005 with a quorum present.


Ian Erlich, Chairman

ATTEST


SUBMITTED BY: Kenaitze Indian Tribe and Native Village of Eklutna

JAN 25 2000
Rec'd by
Jim Eg

Page 1 of 4

RECEIVED

JAN 19 2000

Ronald Frank Barnes
c/o box 716
Dillingham, Near [99576]
Alaska, Nunavit.

Dear Senator Stevens:

Date: 1-19-2000

Please also express notice and assist in resolving this dilemma. These questions need to be answered to resolve the self-determination question in Alaska.

To: The City of Dillingham (CITY OF DILLINGHAM) Chris, Hladick. Vivian M., Braswell, Chris, Napoli. Brenda, Akelkok. Bob, Darrough. Phil, Fyfe. DuWayne, Johnson. Dan, Layland. Jackson, McCormick., individually and collectively, doing business as THE CITY OF DILLINGHAM, any and all entities, agents or assigns attached to this problem before, now, or in the unseen future.
141 Main Street P.O. Box 889 Dillingham, Alaska 99576

Re: WARRANT OF DISTRAINT (AND ALL MACHINATIONS)

2000-A-1000 Document

"Camai" Greetings, I come forth with all my rights intact in order to understand any and all that you bring forth. I do not accept nor do I believe that the United States (UNITED STATES) and all its political subdivisions has entered "Nunavit" - our ancient homeland, with the fully and freely informed consent of all our Indigenous Peoples.

Ronald Frank Barnes, hereinafter called "Requester" is coming forth with a presentment to question the authority of the United States of America, UNITED STATES (Incorporated), The State of Alaska, THE STATE OF ALASKA (Incorporated) in a timely manner in the what is now known to be the independent Territory of Nunavit, and all that is known as Alaska, but not limited thereto.

Take "Express Notice" that: The City of Dillingham, Alaska (THE CITY OF DILLINGHAM, ALASKA) is a political subdivision of The State of Alaska (THE STATE OF ALASKA). And, The State of Alaska (THE STATE OF ALASKA) is a political subdivision of The United States (THE UNITED STATES).

Is this "one nation under God", or do you operate from other venues that have not been presented or made aware of to the Requester?

Is the United States (UNITED STATES) aware that the Indigenous People of Alaska were recognized in the United Nations and therefore by the United Nations Charter? Does the United States (UNITED STATES) in all of its political and legal venues recognize the peremptory norms of international law *jus cogens*?

Are you aware that there are constitutional questions regarding the legality of the State of Alaska (STATE OF ALASKA) and its political sub-divisions enacting statutes and ordinances that are in conflict with the organic Constitution of the United States of America?

By what contract did Tsarist Russia acquire title to Alaska? How could Tsarist Russia convey title when the Indigenous Peoples were recognized to have title and dominion to Alaska? Where did Tsarist Russia get their authority, if any, in Alaska to govern the Indigenous Peoples and the Independent Tribes?

Where do you get your authority to tax? Do the peremptory norms of international law jus cogens apply, if they do not, how did you acquire absolute title and dominion to govern in Alaska? Did the United States (UNITED STATES) acquire title and dominion, if so, how?

Does Genocide and Apartheid apply? Given the nature of problem, if you do, how can you exclude those crimes?

Did the United States of America, UNITED STATES (Incorporated), the State of Alaska (STATE OF ALASKA) and the City of Dillingham (CITY OF DILLINGHAM) have a UCC 3-501 presentment with the Requester's signature thereon, which requires performance? If the Answer is "yes", provide presentment, identification, and authority. Isn't it true that under UCC 3-501, payment need not be tendered until presentment has been made?

Does the Above Case set forth the claim that Requester herein has a signature on any instruments upon which Requester has any legal or equitable duty with respect to, the United States of America and the UNITED STATES (Incorporated)? If the answer is "yes", please provide. Then, is there an implicit contract without full disclosure to the details of the contract without my knowledge?

How did the Indigenous Peoples in the Territory or region of Alaska become obligated to abide by or fall under the organic Constitution of the United States of America?

Does the organic Constitution of the United States of America give the United States (UNITED STATES), The States of Alaska (STATE OF ALASKA) the authority to annex, expropriate or incorporate Territory as a State into the Union of the United States of America when the absolute title has not been established to the United States of America in Alaska? Where in the organic Constitution of the United States of America or any part of the government is this allowed?

Who created the boundaries of what is now known as Alaska? Were all proper parties involved in the dispute including all international legal personalities involved? Were all parties fully informed in the proper languages and did all parties consent?

What authority did you have in order to establish the boundaries without the fully informed and expressed consent of the Indigenous Peoples of Alaska?

Are you aware that the erroneous construction of treaties or statutes makes them null and void? Does this exclude Indigenous Peoples? Please explain.

Are you aware that the United States Supreme Court has held that local governments, their functionaries, agents, public officials and officers can be sued directly under 42 U.S.C.A., section 1983 for monetary, declaratory, or injunctive relief where "the action that is alleged to be unconstitutional implements or executes a policy statement, ordinance, regulation, or decision officially adopted and promulgated by that body's officers"?

Are you aware that there is no statute of limitations for crimes against humanity, war crimes or war crimes perpetrated in a time of peace?

If you can tax F/V Drifter and any of my Yupiaq property, and if you can tax the said property, then, does that mean you own everything/anything I have? How did you gain title to it without my fully informed consent? At any and all levels of government, can you justify taxation without proper representation?

Are you aware that the Indigenous Tribes and that the Indigenous Peoples of Alaska were recognized as having title and dominion to the Alaska region?

Did the United States (UNITED STATES) always recognize title and dominion of Alaska to be in Tsarist Russia?

I reserve my right to amend or add anything to this document.

Do you agree with the Doctrine of Manifest Destiny?

Is the Doctrine of Manifest Destiny considered to be a part of the policy and divine intervention of the United States (UNITED STATES) and all its political sub-divisions, its officers, its agencies, its apparatchiks/functionaries, and assigns at any and all levels of government? Is this doctrine (program) used to alienate, subjugate, or dominate Indigenous Peoples in any way, shape or form?

Are you aware that the Alien Tort Statute, 28 U.S.C., section 1350 provides: "The district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States"?

I include and re-introduce to refresh your memory; the letter dated June 18, 1999.

Are you aware that I reserve all my rights without any prejudice due to this document?

If I do not hear from you within 10 working days from the receipt of this letter answering ALL, then I will presume that you have no lawful authority to tax Requester, assert dominion and authority in any, way, shape or form to/over my non-treaty Yupiaq person.

With due regard,

Ronald Frank Barnes

Ronald Frank Barnes

Non-Treaty Yupiaq real one: Sui juris: Jus Cogens.

This is a true and correct copy. Copyright 2000

c.c.

Executive Office of the President
United States Secretary of The State
United States Attorney General
Governor, STATE OF ALASKA
Attorney General, STATE OF ALASKA
United Nations, Secretary General
Tununak Traditional Elders Council
Organization of American States
Chief Marie Smith-Jones
His Holyness, Pope John Paul II
Her Majesty, Queen of England
Et al

JAN 28 2000

Tununak Traditional Elders Council
Indigenous Peoples and Nations Coalition
Director of Foreign Relations
Ambassador Ronald F. Barnes-Angulluag
8301 Rangeview #1
Anchorage, Alaska 99504
Ph: 907-337-5481 Fax 907-337-3731

January 28, 2000

Dear U.S. [Senator] Ted Stevens:

I need you to respond to these documents, and I would like you reply to this urgent situation regarding the unsettled question of title and dominion in Alaska. It has now become more clear that the United States has not fulfilled the sacred trust obligation of bring the Indigenous Peoples of Alaska to a level of self-determination that was of their own fully and freely informed choice. The interventions presented to the United Nations now demand attention to the unsettled question of self-determination in Alaska.

If you do not respond in 30 days, I will assume that you agree that the "independent tribes inhabiting an independent Territory" in the region of Alaska are a State of Peoples in international law. United States President James Monroe and Tsarist Russia recognized, nor did they deny that status. The Indigenous Peoples of Alaska have title and dominion and we need to settle the matter with the international community including the United States.

I would appreciate your due diligence to this important matter.

With due regard -

Ambassador Ronald F. Barnes
Indigenous Peoples and Women's Coalition

This is a true and correct copy.
Copyright 2000

Shadow Report in regard to the United States implementation Report

Submitted to the Human Rights Committee
March 2006

Submitted by

Indigenous Peoples and Nations Coalition*

If you need to contact the Indigenous Peoples and Nations Coalition you can contact Ambassador Ronald Barnes by email at angull2002@yahoo.com to phone you may call 41 22 79 541 9430 in Geneva, Switzerland.

* The **Indigenous Peoples and Nations Coalition (IPNC)** presents this Shadow Report in support of the Alaska Inter-Tribal Council pursuant to Resolution 2005-10 adopted on 7 December 2005. IPNC is a grassroots Indigenous Organization that was accredited to the World Conference Against Racism. IPNC utilizes **Indigenous World Association** (a Consultative II Non-Governmental Organization accredited to ECOSOC) to raise awareness of the human rights violations in Alaska and Hawaii at the United Nations. This is prepared under the direction of the Traditional Chair of the Indigenous Peoples and Nations Coalition: Ambassador Ronald Barnes. The Na Koi Ikaika O Ka Lahui Hawaii is signed on to this document.