The famed American Constitution . . . that is, the document from which civil rights emanate within the boundaries of the United States, has nothing to say to Chamorro, Samoans, Hawaiians, Inuit, and American Indians.

As indigenous peoples we are all outside the Constitution, the settler document that declares ownership over indigenous lands and peoples. Since the Constitution is an imposed colonial structure, nothing therein prevents the taking of Native lands or the incorporation of unwilling Native peoples into the United States.

—Haunani-Kay Trask, From a Native Daughter: Colonialism and Sovereignty in Hawai‘i

For indigenous peoples in the United States, in addition to indigenous and nonindigenous peoples in the U.S. territories, the political project of civil rights throughout the last forty years has been burdened, due to the history of U.S. settler colonialism, with distinctly different relationships to the nation-state. Additionally, there are different types of citizenship, given the history of forced inclusion within the United States as the American republic appropriated indigenous territory in the service of imperialist expansion. Issues relating to territory, sovereignty, and nationhood
structure colonized peoples’ relationship to the nation-state and can make for radically different goals than those that emerge from the project of civil rights. Civil rights are, by definition, fundamentally about equality under the law: equal protection, equal access, and equal opportunity.

Because the fight for civil rights in the United States was led by African Americans, many white Americans and others still often reduce the struggle to an issue of racial equality without acknowledging the broad vision of those African American trailblazers, along with the Chicano, Asian American, and other group participants in the struggle, and the ways the movement emboldened the struggle for women’s rights and gay and lesbian rights, for example. Despite the expansive and changing notion of civil rights, as a political project it is insufficient for indigenous and other colonized peoples and the ongoing and often pressing questions of sovereignty and nationhood. This is not to say that indigenous and other colonized peoples are not or should not be concerned with education, health, housing, and employment and the right to live free from the structures of white supremacy, racial oppression, male domination, and homophobia, all of which are integral to the civil rights project. Of course, many are concerned with all these elements of livelihood and citizenship. However, because of its very origins, the concept of U.S. civil rights is, by definition, inadequate. It cannot address the nation-to-nation governance and land issues as they affect American Indians and Alaska Native villages, as well as those from the U.S. territories in the Pacific Islands and the Caribbean. The U.S. Virgin Islands, Guam, and American Samoa are all non-self-governing territories under article 73 of the United Nations Charter, while the Northern Mariana Islands and Puerto Rico, both commonwealths, are still subject to U.S. plenary power, despite the fact that under international law commonwealth status is structured by free association, which is supposed to be a mutual form of national affiliation that is consensual.

Additionally, the conflation of race and indigeneity poses a persistent problem for this predicament regarding civil rights. For example, one of the most persistent setbacks for indigenous Pacific Islanders in the United States is related to miscategorization within terms such as Asian-Pacific American or Asian Pacific Islander, where there is no recognition that Pacific Islanders already constitute a panethnic group that is distinct from Asian Americans. Within this Pacific grouping, indigenous Pacific Islanders who have ties to islands that were forcibly incorporated into the United States have outstanding sovereignty and land claims, based on international prin-
ciples of self-determination, which are erased by the “Asian Pacific” con-
flation. Asian-Pacific American emerged as a term used by social agencies
for their administrative convenience.1 Historically, this has posed difficulty
especially for Kānaka Maoli (Native Hawaiians), who have been included in
dozens of legislative acts along with American Indians since 1906 and were
included in the Native American Programs Act of 1974.2

In the Native Hawaiian case, the conflation of race and indigeneity makes
articulating sovereignty claims more difficult. One the one hand, Hawaiians
endure a state-imposed blood racialization regime that purports to measure
indigeneity, while some non-Hawaiians appropriate Native Hawaiian iden-
tities to assert their own place in Hawai‘i while displacing Hawaiian claims
to prior occupancy and national sovereignty. Social acceptance varies for
Kanaka Maoli depending on the context, but among most Native Hawaiians
anyone of Kanaka Maoli ancestry is typically accepted as Native Hawaiian,
regardless of racial appearance or blood quantum, because of a persistent
cultural emphasis on genealogy, kinship, and ancestry. This inclusiveness
is especially true in the face of non-Hawaiian political opposition to Native
Hawaiian entitlements and the sovereignty movement thriving in the
islands in the early twenty-first century. This anti-Hawaiian development is
demonstrated by lawsuits and a broader assault on Hawaiian claims further
discussed below. Indigeneity is about connection to place and assertions of
nationhood, not race and liberal multiculturalism. However, this inclusive-
ness has been exploited by those who incorrectly assume that since most
Hawaiians are racially mixed everyone in Hawai‘i is therefore Hawaiian.
The 2000 U.S. Census was the first time that people could claim more than
one racial designation, and approximately two-thirds of Hawaiians claimed
at least one other race or ethnicity, while the remaining number identified
themselves as Hawaiian only.3 It should be noted that of those who claimed
to be only Native Hawaiian most are not solely of Hawaiian ancestry but
chose it as their primary identity.4

Another, more obvious example of the conflation of race and indigeneity
is the struggle American Indians face in confronting challenges to their dis-
tinct legal status that presume their rights are based on “racial privileges”
rather than political formations as nations. Lumbee legal scholar David E.
Wilkins outlines four realities that set American Indians apart from racial
minorities in the United States. First, American Indians were the original
inhabitants of what is now considered the United States. Second, this pre-
existence necessitated the negotiation of political compacts, treaties, and
alliances with European nations and the United States. Third, as recognized sovereigns, Indian peoples are subject to the U.S. trust doctrine, which is supposed to be a unique legal relationship with the U.S. federal government that entails protection. Finally, stemming from the trust relationship, the United States asserts plenary power over tribal nations that is exclusive and preemptive. The latter issue is the most difficult due to the ways in which the U.S. judiciary has interpreted the commerce clause of the U.S. Constitution to mean full and total power over tribal nations. The clause gives Congress the power to “regulate commerce with foreign nations, and among the several states, and with the Indian tribes.” In other words, the U.S. federal government will not allow any state or foreign nation to interfere in commerce with tribal nations, since the government reserves the right to interact in a nation-to-nation capacity. The Constitution also includes a formula for determining the apportionment for representatives to Congress and direct taxes, “excluding Indians not taxed.” Here the constitutional phrase specifically makes a “distinction between [tribal] Indians having no relationship to the states and individual Indians considered to be regular citizens over whom the states might extend tax liabilities,” as Vine Deloria Jr. and Wilkins observe. In other words, the Constitution acknowledges the separation of tribal governments and their citizens from other U.S. citizens. Of course, this might seem complicated by the fact that the United States unilaterally granted citizenship to American Indians in 1924, but this has meant that Indians of federally recognized tribes have dual citizenship, while Indians of nonrecognized tribes are merely considered U.S. citizens.

While tribes can secure federal recognition via judicial ruling and congressional legislation, the most common path in the last three decades has been through the Department of the Interior. Tribes seeking federal recognition must satisfy seven criteria according to the Office of Federal Acknowledgment of the Bureau of Indian Affairs (BIA):

1. a statement of facts establishing that the tribe has been identified as an Indian entity by reliable external sources on a substantially continuous basis since 1900;
2. evidence that it has maintained a continuous community;
3. evidence that it has maintained political authority or influence on a substantially continuous basis from historical times until the present;
4. a copy of its governing document, or if it does not have one, a statement describing its membership criteria and governing procedures; 
5. a list of all current members, who as a whole must descend from a historic tribe or tribes that amalgamated; 
6. evidence that it consists mainly of people who are not already federally recognized; and 
7. a statement that it is not the subject of congressional legislation that has terminated or forbidden the federal trust relationship.⁹

Basically, tribes seeking federal recognition must show that they have survived every government policy and doctrine designed to destroy them as distinct, collective entities.

In the states comprised of the original thirteen colonies, there are several key issues that affect tribal nations—most notably, their ongoing struggle for basic federal recognition. Historical recognition for state-recognized tribes from the original thirteen colonies is different from that of the “treaty tribes” in the Western states or the Pueblo Indians because of their earlier incorporation into the U.S. nation-state. Furthermore, the contemporary backlash against casino development throughout the United States continues to be instrumental in the opposition to federal recognition. It appears that most nonnative residents and U.S. citizens have a difficult time uncoupling the question of tribal economic development, which is about the political economy of a nation, and the issue of social justice in honoring the U.S. trust doctrine. This is all the more complicated because nonnative communities can be affected by Indian gaming establishments in both positive and negative ways. Also, there is growing resentment among some Americans who see Indian gaming rights as an unfair advantage based on race privileges.

Nowhere is this more apparent than in Connecticut, where the state government is setting new legal precedents in cases involving the Eastern Pequot Tribal Nation and the Schaghticoke Tribal Nation. State attorney general Richard Blumenthal, with support from Senators Chris Dodd and Joe Lieberman, interfered in the BIA’s decision to recognize these two tribes.¹⁰ In 2005, under pressure and illegal lobbying that violated a court order, the BIA reversed its federal acknowledgement of these two tribes from 2002 and 2004 for the Eastern Pequot and the Schaghticoke, respectively. The Schaghticoke are appealing their case in the federal courts.¹¹ The state has defended its actions by saying it speaks for the nonnative resi-
dents of Connecticut. It is also bolstered by “citizens’ rights” groups such as Town Action to Save Kent (TASK) and the Connecticut Alliance against Casino Expansion, both of which hired one of the most powerful lobbying firms in the world, Barber, Griffith, and Rogers, to try to stop regional tribes from securing federal recognition. TASK argued that the Schaghticoke Tribal Nation’s impending recognition was a threat to the “traditions” that “took settlers more than three hundred years to build,” and that their ability to “preserve them for generations to come” was at risk. Thus, TASK positioned the Schaghticoke as the “colonizers” and reversed the usual position regarding whose traditions have been attacked by settler colonialism.

The state of Connecticut’s current stance marks a 180-degree shift. In 1983, Connecticut and federal representatives recognized the Mashantucket Pequot’s tribal status via the Mashantucket Pequot Indian Land Claims Settlement Act. Arguably, the political terrain was quite different at the time, given that the tribe had not yet gained the wealth and power for which it is notable today and was not then a major contender. In any case, the state benefits financially from the Foxwoods casino owned by the Mashantucket Pequot, as it does from the revenue brought in by the Mohegan tribal nation’s gaming establishment. This contrast reveals the differences and overlaps at work in confronting present-day conditions of settler colonialism in the United States, in which a state may take a different stance depending on what it may gain in terms of a financial cut. This means that some states may support a native nation’s quest for federal recognition, while others remain strongly opposed. But it also indicates a different political climate overall, given the political and economic power among the Mashantucket Pequot and the Mohegan tribal nation, presumably as a result of their casino businesses, that contributes to the state budget as well as political lobbying in and beyond the state, especially as both native nations are major contributors to select political campaigns (e.g., the reelection campaign of Senator Daniel Inouye [D-HI] was supported by the Mashantucket Pequot).

As Joanne Marie Barker documents and analyzes, the Indian Gaming Regulatory Act of 1988 served as a catalyst for renewed political opposition to native sovereignty movements throughout the United States. Furthermore, she notes that the use of reverse racism arguments challenges laws recognizing native rights to sovereignty and self-determination. As such, the racialization of native peoples as both “special interest groups” and “racial minorities” is used to undermine the unique status of indigenous
peoples under U.S. federal law and international law. This changing political terrain creates the need for multiple interventions on different fronts when challenging the logic and workings of settler colonialism and how the logic of capital functions in relation to settler colonialism.

Unlike the cases in Connecticut, the Hawai‘i state government currently supports a federally driven bill in favor of Native Hawaiian federal recognition. In 2005, Senator Daniel Akaka (D-HI) introduced this legislation, known as the Native Hawaiian Government Reorganization Act. Conservatives in the U.S. Senate have defeated the bill each year since it was first introduced by condemning it as a proposal for “race-based government.”

In the spring of 2007, at the end of the 110th Congress, it passed out of committees in both the House and the Senate and is currently awaiting a floor vote in the 111th Congress. Nonetheless, many Hawaiian activists oppose federal recognition in favor of full decolonization under international law and therefore view the Akaka bill as a way that the state and federal government aim to settle Hawaiian land claims to clear the way for U.S. military expansion. Federal recognition would allow for nothing more than a Hawaiian nation as a domestic and dependent entity under the full and exclusive plenary power of the federal government. Most immediately, federal recognition would set up a process for the termination of Hawaiian land claims in exchange for that recognition. What is at stake here is the obliteration of unadjudicated claims to these former crown and government lands of the Kingdom of Hawai‘i, which amount to 1.8 million acres. Thus, there is a radical political division between Native Hawaiians seeking internal self-determination within U.S. federal policy and those who are striving for full self-determination under international law with the option of independence from the United States.

The Hawaiian case for national sovereignty exceeds indigenous claims because the Hawaiian kingdom had provisions for citizens who were non-Hawaiian. Given this history, even pro-Hawaiian sovereignty activists who oppose the Akaka bill frame the push for a native governing entity under U.S. federal law as a “race-based government,” because it is specific to Native Hawaiians as an indigenous people. Thus their arguments somewhat resemble the conservative opposition. However, as acknowledged by the federal government, tribal status is not based on race but on a political status, that of nationhood. Hence, the issues of indigenous politics are inadequately addressed by either civil rights discourse or pluralist discourses of inclusion, even while they are misconstrued as race based by
those who appropriate civil rights rhetoric to claim “reverse racism” by tribes that exclude them as nonnatives. Furthermore, neither civil rights nor indigenous rights under U.S. federal law can account for the full Hawaiian sovereignty claim to national statehood.

The treaties negotiated between the Hawaiian kingdom and the United States were made after the United States and other nations had already recognized the kingdom as an independent nation-state, and none were concerned with any territory, or even sovereignty; they only outlined relations of peace and friendship, commerce and navigation. In other words, none were treaties of cession. However, foreign elites threatened the kingdom when they formed their own militia, the Honolulu Rifles, which was associated with the U.S. military. In 1887, they seized strategic points in Honolulu and mounted armed patrols to force the ruling monarch, King Kalākaua, to sign what became known as the Bayonet Constitution. This document stripped him of his most important executive powers and diminished the indigenous voice in government.

In 1891, King Kalākaua’s successor, Queen Lili‘uokalani, attempted to promulgate a new constitution. This prompted U.S. Minister of Foreign Affairs John L. Stevens to try to overthrow the monarch with the support of a dozen white settlers. Queen Lili‘uokalani yielded her authority under protest because she was confident that President Benjamin Harrison would endeavour to undo the actions led by one of his ministers. This was not the case, however, and a provisional government was established by those who participated in the overthrow of the kingdom.

Next, President Grover Cleveland sent investigators to Hawaii to examine and document the chain of events. As a result, he declared the overthrow an “act of war.” In response, the provisional government established the Republic of Hawaii on July 4, 1894, in order to distance itself from the United States, with Sanford B. Dole as president. Besides asserting jurisdiction over the entire island archipelago, the new republic seized the kingdom government and crown lands, declaring them free and clear from any trust or claim. It later ceded these lands to the United States when it illegally annexed Hawai‘i in 1898. The United States annexed the archipelago through its own internal domestic law, the Newlands Resolution, rather than by treaty, despite massive indigenous opposition. Then Congress passed the 1900 Organic Act that organized Hawai‘i as an unincorporated territory and unilaterally enfranchised Native Hawaiian men and women as U.S. citizens.
Like many other colonial territories after World War II, in 1946 Hawai‘i was reported by the United States to the UN list of non-self-governing territories. However, the U.S. government helped to predetermine statehood as the status option for Hawai‘i by treating its political status as an internal domestic issue. The 1959 ballot in which the people of Hawai‘i voted to become a state of the union included only two options: integration or remaining a U.S. colonial territory. Among those allowed to take part in the vote were settlers and military personnel, who outnumbered Native Hawaiians. In turn, the representative of the state reported to the UN secretary general that the Hawaiian Islands had become the fiftieth state—as a result of which Hawai‘i was taken off the list of non-self-governing territories. This statehood vote worked as a preemptive move to solidify Hawai‘i’s status. Just months later, on December 14, 1960, the UN General Assembly issued the Declaration on the Granting of Independence to Colonial Countries and Peoples. Also in 1960, the assembly approved a resolution that defined the legitimate options of full self-government as one of the following: free association with an independent state, integration into an independent state, or independence. In light of this, many Hawaiian activists are fighting for Hawai‘i’s reinscription on the list and a full hearing with the UN Special Committee on Decolonization. This was a major issue throughout the 1980s and early 1990s, along with a grassroots push for federal recognition that was quite different from the state-driven push for it today.

In 1993, Congress apologized to the Hawaiian people for the U.S. military’s role in the overthrow. This joint resolution, the Apology Resolution, maintains, “The indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum.” After it passed, the entire Hawaiian sovereignty movement seemed to shift, as this official admission seemed to clear a space for a new generation of independence activism.

However, the state government rapidly attempted to co-opt this groundswell by trying to contain the movement with governor-appointed commissions and promises of settlements over land claims. The nonnative residents of Hawai‘i created a strong backlash against both the movement and the state, and by the late 1990s, there was something else in the works—a series of lawsuits by white Americans, and now even some Asian Americans, attempting to eradicate Hawaiian-specific institutions in the name of
civil rights. Unfortunately, one of these cases, *Rice v. Cayetano*, made its way to the U.S. Supreme Court in 2000. In this suit, white American Harold F. Rice sued Hawai‘i’s then governor Ben Cayetano for violating his Fourteenth and Fifteenth Amendment rights because he was not allowed to vote for trustees to the Office of Hawaiian Affairs. Although the Court refused to address the Fourteenth Amendment question, it ruled that Hawaiian-only voting was a violation of his Fifteenth Amendment rights. As Eric Yamamoto has suggested, the *Rice* decision is perhaps the first time that the Fifteenth Amendment has ever been invoked to protect the rights of a white male. Shortly after the ruling, Senator Akaka proposed legislation to federally recognize a Native Hawaiian governing entity.

In Hawai‘i, those engaging in reactionary opposition to indigenous rights have been legally challenging the federal funds allotted by the U.S. Congress for Native Hawaiian health, education, and housing. In March 2002, sixteen plaintiffs filed *Arakaki v. Lingle* (formerly *Arakaki v. Cayetano*) to also challenge the constitutionality of the Office of Hawaiian Affairs, the Hawaiian Homes Commission Act, as well as both state and federal Native Hawaiian–focused programs. The plaintiffs claimed standing as taxpayers who objected to the use of general state and federal income tax revenues and argued that their misuse violated the equal protection clause of the Fourteenth Amendment of the U.S. Constitution. By November 2003, Hawai‘i U.S. District Court Judge Susan Oki Mollway removed the Department of Hawaiian Homelands, the Hawaiian Homes Commission, the State Council of Hawaiian Homestead Associations, the federal government, and other intervening parties from the suit. The district court dismissed the plaintiffs’ claims because they would necessarily involve a challenge to the state Admission Act, and the plaintiffs had no standing to sue the United States. In addition, since the Akaka bill was under consideration in Congress, Mollway dismissed the case against the state of Hawai‘i and the Office of Hawaiian Affairs because of the political question regarding Native Hawaiians’ status.

The plaintiffs who remained with the case appealed to the Ninth Circuit Court of Appeals, and by August 2005, the appellate court upheld the lower court’s ruling, but reinstated a portion of the suit challenging the funding of the Office of Hawaiian Affairs from state general funds. The plaintiffs appealed, but the U.S. Supreme Court rejected the plaintiffs’ legal standing and sent the case back to the Ninth Circuit for further proceedings regarding the plaintiffs’ standing. On February 9, 2007, the Ninth Circuit
decided the Arakaki plaintiffs lacked standing as taxpayers and remanded the case back to the Honolulu District Court to determine whether the plaintiffs had any standing at all. On April 16, 2007, Judge Mollway ruled that no plaintiffs have standing. Although the plaintiffs filed an amended complaint, the motion to amend was denied, thus putting an end to the lawsuit. However, the anti-Hawaiian assault continues in other forms.

Kenneth R. Conklin, one of the plaintiffs in the Arakaki lawsuit, is a central figure in the opposition against the Hawaiian sovereignty movement and the author of Hawaiian Apartheid: Racial Separatism and Ethnic Nationalism in the Aloha State. Conklin’s book is a rant against any form of Hawaiian land rights or nationhood. Conklin is cofounder of a group called Aloha for All, which describes itself as “a multiracial, multi-ethnic group committed to the principle that aloha is for all people regardless of racial, ethnic, or national origin.” The group explicitly stands against proponents of “Hawaiian sovereignty” because they are seen as a political project of Hawaiian “racial supremacy.” It was cofounded by H. William Burgess, the key attorney in Arakaki. Aloha for All is funded by Thurston Twigg-Smith, a fifth-generation white American resident of Hawai‘i, who is the great-great-grandson of Asa and Lucy Goodale Thurston—pioneer missionaries to the Hawaiian Islands—and the grandson of Lorrin A. Thurston, who played a key role in the overthrow of the Hawaiian kingdom. Clearly, the legacy of colonialism has left many disturbing genealogies, none more so than white supremacy and white property rights passing themselves off as the voice of white (American) reason and racial equality.

Aloha for All asserts seven basic commitments in its political vision:

1. A united state of Hawai‘i.
2. All persons are inherently equal.
3. Kanaka Maoli are culturally first among equals.
4. All races were historically full partners in the kingdom of Hawai‘i, and remain full partners today.
5. Government assistance should be based on need without regard to race.
6. There are no special land rights based on race.
7. Kanaka Maoli are not comparable to an Indian tribe. They are an ethnic group, not a political entity.

In the explanations that follow each of the seven principles as they appear on Conklin’s Web site, the quest for Hawaiian nationhood is explicitly framed
as a bid to “partition” the state of Hawai‘i along racial lines. The group also presumes that attempts to gain recognition as an indigenous political entity are “motivated primarily by a desire for special welfare benefits, tax exemptions, and regulatory exemptions.” Instead, the group supports Hawaiian culture and its “preservation” as a “first among equals not because it has any legal or political entitlement to supremacy, but because it was historically first and continues to inspire us all.” Also, the notion that Native Hawaiians remain “full partners” today under settler colonialism is an obscene contradiction in terms. There is no acknowledgment of indigeneity here; Aloha for All regards Native Hawaiians as only a race and wants to render invisible such land claims based on original occupancy and the sovereignty of the kingdom—and without further recourse to reclamation.

As if all this were not enough, there is also the Grassroots Institute of Hawaii, which is a libertarian public policy think tank formed in 2001 that has worked to promote individual rights and bolster private businesses. The institute opposes Hawaiian sovereignty claims on grounds that they are a threat to individual freedoms of U.S. citizens and counter to private property rights.

At the U.S. national level, in July 2007, the U.S. Commission on Civil Rights filled vacancies on its Hawai‘i advisory committee by choosing several outspoken activists against Native Hawaiian sovereignty. Under the George W. Bush administration, the Commission on Civil Rights is a cruel joke. The commission itself is on record against the Akaka bill for its sponsor, but the Hawai‘i advisory committee has previously favored federal recognition for Native Hawaiians. Among the fourteen new members to the seventeen-member advisory committee are Burgess, Tom MacDonald (a retired investment executive who is on the board of scholars of the Grassroots Institute of Hawaii), and several other neoconservatives. That there is a calamity with any advisory committee to the U.S. Commission on Civil Rights should not be surprising given the current administration, which viciously uses “civil rights” to oppress the legitimate claims of racial groups, women, sexual minorities, transgendered people, and indigenous peoples (and all combinations therein).

Many bona fide civil rights activists have struggled to rearticulate the original spirit and goals of civil rights in order to ward off cooptation and misappropriation. Some are going even further and disarticulating the concept of civil rights from that of human rights. Whereas civil rights are to be protected by the sovereign state and U.S. national law as an aspect of
the social contract, human rights are meant to protect citizens from abuse by the state and to guarantee rights considered inalienable to all people. Indigenous peoples worldwide have worked for decades to ensure that their preexisting human rights are recognized and upheld by global nation-states, especially since the domestic laws in most settler states have not protected their ability to assert their self-determination.

On September 14, 2007, the UN General Assembly adopted the Declaration on the Rights of Indigenous Peoples. The declaration is the most comprehensive international instrument addressing the rights of indigenous peoples all over the world and is the result of nearly three decades of activism. The declaration was met with a vote of 143 in favor, 4 against, and 11 abstentions. The four nations that voted against the declaration are Australia, Canada, New Zealand, and the United States. These four nations refused to adopt the declaration due to earlier claims that the full right to self-determination could empower indigenous peoples to disrupt the contiguous landmass of these nation-states. Yet, as Maivân Lâm points out, it is possible for indigenous peoples to exercise self-determination without threatening the territorial integrity and sovereignty of the surrounding state, especially since most have visions of becoming autonomous without becoming nation-states. Nonetheless, whether indigenous peoples want internal self-determination only is a separate question from one concerning the right to full independence. Regarding the issue of self-determination, the declaration is ambiguous. Article 3 states: “Indigenous peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development.” Countering that, article 46 refers to autonomy and self-government in cooperation with states.

Setting aside the possibility of a tribal nation seeking to become a nation-state in its own right, let us imagine the U.S. nation-state doing the following: honoring and abiding by all of the treaties signed between the U.S. government and indigenous nations; returning all of the national parks to the indigenous peoples from whom they were taken; federally recognizing all tribal nations and entities who seek this model of acknowledgment (namely, the more than two hundred groups who have already submitted their petitions and remain on the BIA’s waiting list); and restoring all previously terminated tribes with federal acknowledgment. None of these four suggestions need be tied to the goal of indigenous nations becoming nation-states, but if these sound absurd, it is only because of the conditions
brought about by the settler colonialism this proposal seeks to devastate. Indeed, the United States will not take action on any of these at this particular moment in time because the U.S. state would collapse. This is a crisis that is inherent to the U.S. nation-state. Obviously, indigenous peoples cannot rely on the same state that relies on stealing their lands for its very existence. Of course the UN adoption of the declaration is a victory, but only if we can work to give it meaning and substance.

Notes

A shorter version of this essay was first presented as a keynote address at the symposium “40 Years of Community Activism, 1967–2007: Civil Rights Reform, Then and Now,” held at the University of New Mexico, Albuquerque, on September 27–28, 2007. I am grateful for the comments made at the gathering and especially to Michelle Knalls and Elizabeth Archuleta for the invitation to present. Mahalo to Jason Villani for his critical feedback as I developed this piece. Thanks also to Alyosha Goldstein and Alex Lubin for their comments on an earlier draft of this essay for publication.

Regarding the use of diacritical marks for Hawaiian words, please note that some terms include the glottal stop (e.g., Hawai‘i), while others include the macron, depending on its usage. For example, Kanaka is used for the singular and the categorical plural (the entire category), while Kānaka is used for a countable plural.


2 In 1997, the U.S. Office of Management and Budget, which sets the race and ethnicity standards for all federal activities, revised its twenty-year-old race and ethnicity standards for data collection used for federal civil rights compliance, statistical reporting, and general program and grant administration. Hawaiians, among other Pacific Islanders, were removed from the Asian category and given a separate category. However, because very few federal agencies have modified their data collection records, the socioeconomic profiles for Pacific Islanders are extremely difficult to ascertain. The U.S. Census uses a high threshold figure for delineating the data, and Pacific Islanders rarely measure up to this number in terms of any given population count from place to place. See J. Kēhaulani Kauanui, “Asian American Studies and the ‘Pacific Question,’” in Asian American Studies after Critical Mass, ed. Kent A. Ono (Malden, MA: Blackwell, 2004), 123–43.


4 In 1986, Kānaka Maoli who were not racially mixed were said to number less than 3.8 percent of the Hawaiian population. Kekuni Blaisdell and Noreen Mokuau, “Indigenous Hawaiians,” in Hawai‘i: Return to Nationhood, ed. Ulla Hasager and Jonathan Friedman (Copenhagen: International Work Group for Indigenous Affairs, 1994), 53.

5 David E. Wilkins, American Indians and the American Political System (Lanham, MD: Rowman and Littlefield, 2007).

6 U.S. Constitution, art. 1, sec. 8, cl. 3.

7 U.S. Constitution, art. 1, sec. 2, cl. 3.
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11 It is unclear whether the Eastern Pequot will appeal their case, which would prove to be very difficult since the financial backer who supported their work to gather evidence for their petition pulled out after their recognition was revoked.


18 Ibid., 71–87.


25 Ibid., 233.


27 For more information, see Aloha for All, www.aloha4all.org/home.aspx (accessed April 1, 2008).

28 For the seven principles of Aloha for All as delineated by Kenneth R. Conklin, see www .angelfire.com/hiz/hawaiiansovereignty/principles.html (accessed March 24, 2008).

29 Ibid.

30 Ibid.