

Interview
KEANU SAI
July 2006

[GENERAL CONVERSATION]

QUESTION: Can you state your full name and professional [INDISTINCT]?

SAI: Well, my name is uh, Keanu Sai. I'm a Ph.D candidate in political science at the University of Hawaii Manoa.

QUESTION: So what is your memory or impression of statehood day?

SAI: Well, I was born in 1964, so I can't recollect anything that took place in 1959.

QUESTION: Okay.

SAI: I wasn't even a sparkles in my dad—in my dad's eye at that time. [CHUCKLE]

QUESTION: Do you remember any impression of your parents' and you relatives' reaction to statehood?

SAI: Actually, statehood was not an issue. Um ... I grew up in a valley called Kuliouou on the uh, southeastern side of Hono—of Oahu. Um ... yeah; my family was just ... a normal family, um, working ... voted., uh, very much Democrat. My grandmother was Republican. Uh, beyond that, though, the statehood issue was ... something of the past that—that really wasn't spoken of, but more or less treated as a given.

QUESTION: I see; okay. So tell us about the Larsen case.

SAI: Well, the Larsen case was an arbitration case that took place between 1999 and 2001 at the Permanent Court of Arbitration uh, in the Netherlands, in a city called The Hague. Uh, the case itself took place between—well, it was a dispute between Lance Larsen, a Hawaiian national, an the acting government of the Hawaiian Kingdom. Uh, Lance Larsen asserted that the acting government did not protect him when he was incarcerated for thirty days, seven days solitary confinement, by the authorities uh, in Hilo on the Island of Hawaii, for following Hawaiian Kingdom law. Uh, he sought redress uh, against the acting government for not protecting him. So the case was all about whether Lance Larsen could sue the acting government for not protecting him from the United States. That was the basis of the case. Um, what came out of that was the court um, had preliminary hearings set to determine whether they could proceed in the absence of the United States, given the fact that the United States was the party who arrested Lance Larsen, and if they were gonna look at whether the liabilili—the—the liability of the acting government uh, could be uh,

sought by the Lance Larsen. They had to determine whether the actions taken by the United States uh, amounted to that. And without the United States as a third party, the court not proceed to see whether Lance Larsen could sue the acting government. So in that sense, the case um, or the court determined that they could not proceed without the United States, but more importantly, what the case provided was the fact that the case was heard. And the issue there was Hawaii and international law, and not domestic law. Another—another um, part of the case that—that—that came out in the arbitration award that was very significant is that it verified Hawaii to be an independent an sovereign state in the 19th century. That's important. Under international law, once you have already achieved your sovereignty, that sovereignty remains intact unless it is transferred by treaty to another country. In the case of Hawaii, there's no treaty. So ... Larsen—the Larsen case showed that Hawaii could still access the international realm regarding its continued sovereignty, and not pursuing sovereignty.

QUESTION: So in your opinion, Hawaii cannot become legally or by authority, become part of the United States from your perspective?

SAI: Under international law, um, there's only two ways that sovereignty can be transferred between two countries; and that takes place by a treaty of cession, like the Louisiana Purchase, or a treaty of conquest, like the Treaty of Guadalupe Hidalgo, 1848, which is how America acquired Cal—acquired California, New Mexico, Arizona, and Texas. A country just cannot step into another country and claim it. It needs to e transferred. Um, a—a case in point would be Iraq. Although the United States overthrew the Iraqi government, that did not equate to an overthrow of Iraqi sovereignty. Iraq still exists as a sovereign and independent state. In that sense, Hawaii bears a similar resemblance to Iraq when Hawaii was seized in 1898 during the Spanish American War for military necessity. No treaty has been followed up. Instead, what you have are um, American laws passed by the United States Congress being imposed in Hawaii, a sovereign and independent state. Now, what has taken place since 1898 ...throughout the century, 'til today, is that Hawaii as a sovereign country somehow has been erased from people's memory. We've only known Hawaii within the United States. We did not really know what was Hawaii prior to the United States being here. That's why the Lance Larsen case was so significant that it—it—it connected itself back to that status of Hawaii under international law since the 19th century. If Hawaii was a part of the United States during the arbitration proceedings in the Netherlands, um ... Hawaii would not—uh, our case would have not been able to have been accepted by the court to be heard. Um, but the mere fact that Hawaii was sovereign, and there's no evidence that that sovereignty was transferred ... provided the basis on why the case was heard in the Netherlands.

QUESTION: Can you tell us all the other players [INDISTINCT] the Larsen case?

SAI: There were three major player—thr—or actually, four major players in the case. The first were the parties in—involved themselves. And that was Lance Larsen, who was a Hawaiian national; he's a descendant of Hawaiian nationals. And when I use the word Hawaiian, I use it in a national sense. It's not ethnic. Um, for all intents and purposes, Lance Larsen could have been pure Caucasian, pure Chinese. But if he was a descendant of a citizen of the Hawaiian Kingdom, that makes him a Hawaiian national. So Lance Larsen was a Hawaiian national, he was one party, and he was the plaintiff or the moving party. And he was attempting to sue the acting government, who was that other party. And the acting government is that entity that I represented, along with um, uh, uh, four other individuals uh, serving as deputy agents and advocates. Uh, we had two attorneys, and two historians on our legal team. Uh ... the third party was the United States. Uh, third party uh, meaning that they were the ones who arrested Lance Larsen, and the dispute was in regards to that arrest. And the final fourth party would be the Permanent Court of Arbitration itself in the Netherlands, who provided the venue for the arbitration to take place.

QUESTION: So what was the outcome of the case ... aftermath, and how did that affect Hawaii sovereignty?

SAI: I think the effect was profound. Uh, for the first time in a hundred years, Hawaii on its own had accessed an international forum, uh, addressing those issues that took place over a century ago. Uh, Hawaii's status as a sovereign country now throws into question the idea of what is called a sovereignty movement. We've been used to, here in Hawaii, this movement uh, that has been called the sovereignty movement where native Hawaiians or ethnic Hawaiians, or aboriginal Hawaiians are pursuing sovereignty. Uh, with this information, it shows that sovereignty was already achieved, and that issue is not an issue of ethnicity, but rather, nationality, and country being sovereign and not necessarily a people aspiring to be sovereign. A case in point would—

[INTERRUPTION]

QUESTION: So what was the aftermath impact of the Larsen case?

SAI: Well, the impact that the Larsen case had not just in Hawaii, but on the international level, was it began to raise the awareness of Hawaii's former sovereignty and its continual sovereignty. Um ... in that respect, um, it opened the door for more—more research, uh, definitely a shift in paradigm, uh, looking at Hawaii as a country and not necessarily looking at Hawaii as an aspired country or to become a country again.

Uh, certain terms that have come into play uh, are—are the terms occupation versus colonization, um, nationality versus ethnicity. So in that sense, it provided a significant uh, impact in the research that would follow thereafter.

QUESTION: What was the direct [INDISTINCT] Larsen case, what was the outcome? Was there any result—

SAI: Decision.

QUESTION: Yeah.

SAI: Okay. [CLEARS THROAT] Well, after the preliminary hearing that the court held um, in the Netherlands back in December of 2000, um, they heard arguments on whether the court could proceed without the United States' involvement. Um, the court later rules in the arbitration award that it was not able to proceed without the United States as a necessary party, given the fact that they could not look at the acting government and its liability without the United States involved, who were the ones that were responsible for the arrest of Lance Larsen, thus creating the case itself. So the court did rule that it could not r—uh, proceed without the United States, but what they provided in the arbitration award, which was important, is it verified in fact to be an independent and sovereign state in the 19th century. The question now is, where did that sovereignty or how did that sovereignty uh, get transferred to the United States of America. So there's a uh, a presumption of continuity of sovereignty under international law, versus what people have thought uh, regarding Hawaii's history as a foregone conclusion that sovereignty is an aspiration. So in that sense, the paradigm has shifted. Now, once the arbitration case—once the arbitral award was issued back in February of 2001 ... uh, we decided to test that, to see if we could access other international forums with that arbitration award. And I was able to file a complaint with the United Nations Security Council as a non-member state of the United Nations against the United States for prolonged occupation. China served as the president of the Security Council when the complaint was filed. At first, China um, rejected the uh, the—the prospect of filing the complaint um, in their eyes assuming that Hawaii was a part of the United States. After I gave a uh, uh, a history of Hawaii to that individual representing the Chinese Permanent Mission, and explained about the Larsen case in The Hague ... that individual understood what I meant and explained to me that this is how the complaint can be filed. So the complaint was filed in the United Nations Security Council. Uh, the fact is, we did that to see if we could access another international forum. The intent was not to initiate any proceedings, but rather to test this new prospect, or should I say old prospect, of Hawaii's sovereignty and if we can enter certain international forums that

Hawaii would not otherwise be able to enter if it was really a part of the United States.

QUESTION: What's the Court of Arbitration?

SAI: Permanent Court of Arbitration was established in 1899, a multi-lateral peace conference which established what was called The Hague Convention. Um ... countries including the United States met in the Netherlands, in The Hague, under the organization um, uh, proposed by uh, Czar Nicholas II from Russia. And they came up with this idea of having a Permanent Court of Arbitration to be see—to—to uh, to sit in the Netherlands. Um, that court has also been accessed by the United States many times. Uh, the most recent uh, proceedings that the United States had entered that court was the Iran Claims Tribunal that was uh, done in the aftermath of the Tehran crisis when the embassy was taken over. Um, in fact, the proceedings uh, in the Iran Claims Tribunal were in the same room that the Larsen case was in. So there is some historical significance, but also legal significance in the creation of the court.

QUESTION: What's your impression of the state of Hawaiian sovereignty movement right now?

SAI: Well ... the term sovereignty movement implies movement toward sovereignty; meaning it's an aspiration, it's not a reality yet. Uh, there's basically to tracks that you might say takes place in the sovereignty movement today. One is the pursuit to become an autonomous unit or an—an autonomous nation within the United States along the lines of Native Americans. Um, the other track is the independence movement within the sovereignty movement that is moving toward independence; again, an aspiration. Uh, what I'm involved with, and what the larki—Larsen case represented was not a movement toward independence, nor was it an issue of whether Hawaii is a Native American tribe. But rather, Hawaii in the 19th century was a recognized independent and sovereign state, and a co-equal to the United States as far as a sovereign entity. The question then is, where did that status change, and not do we want to break away from the United States. Because if that status has not changed, then legally Hawaii is not a part of the United States.

QUESTION: So what's your opinion on the Akaka case and the current aftermath?

SAI: I think the Akaka Bill is an interesting case. Um ... it did not begin—this movement did not begin along the lines of the Akaka Bill ... to become a recognized tribe. Uh, that was a byproduct, I believe, of pretty much pursuing the protection of native Hawaiian entitlements under Congressional law. Uh, the Akaka Bill was a means to protect the entitlements in what is—what—in what we have called the aftermath of the Rice versus Cayetano case, where the Office of Hawaiian Affairs was basically

deemed illegal in the sense of not allowing other citizens not of native Hawaiian ancestry to vote. That began a systematic onslaught, you might say, of native Hawaiian entitlements by what has been called the um, colorblind America. It's a movement within the United States that seeks to provide equality under the law, irrespective of ethnicity. Um ... it's ... i—i—it's—it's a movement that I think fits in line with the American way of thinking. You know, everyone equal under the law. And OHA was a symbol or an example of how a governmental agency, not a private agency like the NAACP, but a governmental agency that receives uh, funding through taxes um, is now caught up on this issue of race-based legislation or race-based uh, a race-based agency of the government. Uh, the Akaka Bill sought to protect the Office of Hawaiian Affairs, the Hawaiian Homes Act, from these attacks. So in that sense, the Akaka Bill was merely an attempt to protect the entitlements, and I wouldn't say it was clearly an attempt to turn native Hawaiians into a tribe. That was just a byproduct of that process. Now that the Akaka Bill has uh, suffered a defeat in the US Senate, um ... it places a burden now on OHA and other native Hawaiian entities such as Kamehameha Schools, a private entity, to look at other uh, uh, um, alternatives to protect the entitlements. And not necessarily pursue native Hawaiian—uh, native American recognition.

QUESTION: Are there any final words you'd like to add [INDISTINCT].

SAI: Well, I would say the um ... the greatest culprit that exists here in Hawaii ... is ignorance. Uh, it's—it's a history we don't know. I think it's very important for us to know history, and not to just begin at statehood in 1959. But take it back to the beginning; I would say to Kamehameha I, who unified the islands. And then from there, come forward. And look at history in an objective standpoint; you know, from an objective perspective. Not—not subjective, not that we're here to prove a point, but a narrative that can explain Hawaii and its uniqueness in the world. And I think through that process, we can begin to understand the history as a collective history, and not necessarily as a sovereignty history versus the non-sovereign history, or vers—or the ethnic history of native Hawaiians versus the non-ethnic history of—of native ha—uh, of non-native Hawaiians. And I think with that, um, Hawaii will—will—will show itself for what it is as a place of aloha, and I think we need to understand that and live by that. But we live in a uh, in a different world today. Um, there's no denying that native Hawaiians and their entitlements that have been provided by the federal government are under attack. And that's a real issue for—for many people. Um, but I do believe history provides the answers for solutions into the future.

[GENERAL CONVERSATION]

QUESTION: Rice; his last name is Rice. Yeah, his last name is Rice. What's your opinion on that part Is there any truth to that?

SAI: Yeah, there act—well, there is a precedence for native Americans having gambling at a—a source of revenue for the tribes. Um ... so that's a byproduct of being recognized as a native American tribe. Now, the point of contention here is ... let's say Hawaii was recognized as a native Hawaiian tribe within this context of American law. The question would be, what type of relationship would the native Hawaiian tribe have in relation to the uh, State of Hawaii and the Legislature? 'Cause obviously, the State of Hawaii does not condone gambling. You know, so—so those issues haven't been uh, looked at. But I think it's a foregone conclusion already, 'cause [CHUCKLE] the Akaka Bill is dead.

QUESTION: Right.

SAI: And I don't think it's ever gonna come up, being that the majority of the Congress are Republicans, and clearly the Bush administration is not sympathetic to these issues and have already issued a statement that they're not willing to support it. So until some major change takes place in Congress, and in the White House, the Akaka Bill will never ... will never get passed. Now, what that does though, it takes it back to the original issue. How do you protect the entitlements that native Hawaiians relied on through federal legislation? I don't think it's right for the federal government to say, here are these laws, create a dependency on these laws, and then at a—and then at a moment's notice say, well, they're all illegal because they're unconstitutional. Uh, there needs to be a process to wean off of these entitlements, if in case that's their—their point. But you know, that's not an issue here. The point would be, you know, how do you protect the assets, and then what is the bigger issue; what is Hawaii under international law. Which would make this legislation irrelevant.

QUESTION: What was the name of that doctor [INDISTINCT]?

SAI: Aluli; Emmett Aluli.

QUESTION: His last name is ...

SAI: Oh, Blaisdel, Kekuni.

QUESTION: Blaisdel; yes. His opinion on the Akaka Bill was actually rather opposite of you. He actually opposed the Akaka Bill because in his opinion, the Akaka Bill is kind of irreverent due to the fact that Hawaii, you know, in this [INDISTINCT] nation perspective is still under the control of the United States.

SAI: Right.

QUESTION: They have the right to phase out any laws [INDISTINCT]. He was just completely you know, not for the Akaka Bill.

SAI: Well, his perspective is that Hawaii has been incorporated into the United States; they're pursuing a process to break away from the United States, and that the Akaka Bill would impede that process. That it would—it would uh, compromise the right to independence. See, that's the perspective. You know, so here, the perspective that I presented, well if Hawaii was a part of the United States to begin with, how did we get to the World Court? You know. So we're looking at is sovereignty intact, or is sovereignty being sought, and if it's being sought, would the Akaka Bill impede that process to pursue sovereignty. That is what a lot of the uh ... that—that perspective is what uh, uh, was taken up by many people in the sovereignty movement. They looked at the Akaka Bill as if it was a threat to the pursuit of sovereignty. Now, if that's the case, if they're afraid of a bill, the Akaka Bill, I think they should be more afraid of the Statehood Act, which was already passed in 1959, created a State of Hawaii, and there was a vote. Why is it all of a sudden we're concerned about the Akaka Bill, which hasn't even become an act yet? And the Akaka Bill, if it did become an act, would be um, below or—or—or within the context of the State of Hawaii as an established part of the United States. It won't exist outside of the State of Hawaii. So ... you clearly can see some contradictions that take place. Are you pursuing sovereignty, and you see the Akaka Bill impeding process? Or, is Hawaii still a sovereign country? Then that would be the Akaka Bill and all legislation passed by the United States is irrelevant. Because America, or Congress, cannot have authority in another sovereign country. That would be like France passing laws that affect Japan tomorrow, or Korea passing laws that affect Great Britain. Again, it boils down to sovereignty is the crucial point, and that's where the Permanent Court of Arbitration verified Hawaii was in fact sovereign, and it still is sovereign.

[GENERAL CONVERSATION]

[END]