

## Hawaiians Are Not A Tribe

Posted By [Keli'i Akina](#) On 10:01 AM 06/04/2014 In | [No Comments](#)

On the surface, Hawaii is a melting pot of all races and national origins. Beneath that surface, there is brewing an attack upon Constitutional protections against racial discrimination which could have far-reaching consequences for the rest of the nation. The Department of Interior's [advance notice of proposed rulemaking \(ANPRM\)](#) is the latest move in its process of paving the way for federal recognition of a race-based government of Native Hawaiians. This represents an egregious overreach of executive power.

From a sentimental point of view, Americans can easily feel sympathetic toward the idea of righting the supposed wrongs done to Hawaiians as a tribe. The problem with this thinking is that Hawaiians never were and certainly are not today a tribe. From the time the Hawaiian Kingdom was established by its first monarch King Kamehameha through the 1895 abdication of the throne by its last monarch Queen Lili'uokalani, citizenship in Hawaii was never based upon race. If the Hawaiian Kingdom were somehow to be reinstated today, there would be no racial tribe to give anything back to, as the Hawaiian citizenry consisted of Polynesians, Caucasians, Asians, and others who lived under a constitutional monarchy.

The executive branch is using the construct of a native tribe to attempt an end-run around both the Supreme Court and Congress. In 2000, the Supreme Court ruled in the landmark *Rice v. Cayetano* case that Native Hawaiian is an ethnicity (like, for example, Portuguese or Hispanic) and not a tribal or political category. Congress, from 2000 to 2012, rejected all attempts through the numerous versions of the Akaka Bill to redefine ethnic Hawaiians as a political tribe with a "government to government" relationship to the United States. That having failed, in 2012 the executive branch, through the Department of the Interior, began laying the groundwork for [administrative rules to officially recognize a Native Hawaiian tribal government](#), again, something which does not exist. That effort coincided with the passage in the same year of the State of Hawaii's [Act 195](#) which established the Native Hawaiian Roll within the Office of Hawaiian Affairs for creating a roll of racially Hawaiian citizens (i.e., tribe members).

The effort of the Native Hawaiian Roll to redefine Hawaiians as a political tribe has met with little support. The commission responsible for administering the roll, which was open between July 20, 2012 and May 1, 2014, claims that [approximately 125,631](#) Native Hawaiians have "signed up." In fact, most never "signed up," as official registration requires enrollees to endorse [an affidavit](#) which states: "I affirm the unrelinquished sovereignty of the Hawaiian people and my intent to participate in the process of self-governance." The majority of names on the roll [were transferred from non-political lists](#) of ethnic Hawaiians who have not affirmed such a statement.

Yet the executive branch is undeterred. So obvious are its efforts to create a tribe by fiat that four members of the U.S. Commission on Civil Rights were moved to send [a letter to President Obama](#), dated September 16, 2013, telling him that, "Executive action implementing provisions of the Akaka bill would be ... unwise and unconstitutional." They also reiterated that "whatever the perceived or actual wrongs that were done to native Hawaiian rulers in the late nineteenth century, there was not then a distinct 'tribe' of native Hawaiians living separately from the rest of society, and there certainly has not been any in the 120 years since."

So, to what end does the executive branch labor? Who benefits from the redefining of ethnic Hawaiians as a tribe for purposes of federal recognition? Ultimately, it may come back to the tried-and-true motivations of money and power — at least among "tribal" leaders and the political and corporate elite in Hawaii who, with their national counterparts, have dominated Native Hawaiian politics for decades. It is likely that any Native Hawaiian government entity would be able to lay claim to sizeable land holdings and revenues — and the Office of Hawaiian Affairs has been working to expand its role and powers as a developer.

In a broader sense, however, a larger beneficiary may be those who traffic in racial identity politics. The

legal reverses suffered in recent years would be wiped away by a philosophy that raises racial identity to the level of sovereign nationhood. Not only would this open the door to other groups to petition for special legal status based on their standing as a racial community, but it would force a reconsideration of how far the equal protection of the Constitution can actually reach.

Article printed from The Daily Caller: <http://dailycaller.com>

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