The Davis Decision and Updates on Guam's Quest for Decolonization

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Si Yu'os Ma'åse na makombibida yu' mågi ta'lo para bai hu saonao gi este na dinanña'. Gi tinestigu-hu på'go, bai hu sangåni hamyo put i halacha na hiniyong gi islå-ku yan i kinalamten-måmi para in gi'ot i direchon-måmi komo taotao.

Your Excellency Chairman Ramirez, distinguished delegates, representatives and experts from fellow Non-Self-Governing Territories, I am honored to be here again speaking before you on the topic of Guam and its continuing quest for decolonization. In my statements today, I will be providing updates on recent activities related to the issue of Guam's decolonization, in particular a decision in a US Federal district court that threatened to derail long-standing efforts to hold a self-determination plebiscite. I offer these updates and my commentary based on my years of experience pushing for Guam's decolonization as a community activist, years as a scholar studying this issue and also my role as a the co-chair for the Independence for Guam Task Force and finally as a member of Guam's Commission on Decolonization.

The past year has seen a great deal of local activity with regards to decolonization, most notably through a variety of educational outreach efforts carried out through the task force I co-chair that are focusing on illuminating the future possibilities for Guam should it become an independent country. The Independence for Guam Task Force has held more than three dozen small to large community meetings in different areas of Guam, providing educational materials to attendees, but also documenting the concerns and ideas they have about Guam becoming an independent nation. The Commission on Decolonization, which is the government body tasked with guiding an educational campaign towards the goal of a self-determination plebiscite, has also undertaken some community outreach. Most notably, it organized a debate between high school students over the three possible political status options. A poll was taken of the 800 high school students present, with 48% choosing inclusion in the US, 34% selecting political independence, and 18% free

association with the United States. With the efforts underway, there was discussion within the Commission on Decolonization that a plebiscite might be held as early as 2018 or 2020.

March 8th of this year, however, represented a dark day in terms of efforts for decolonization and the prospects of working collaboratively with our administering power in ensuring that this process be carried out in the spirit of restorative justice. On that day, Judge Frances Tydingco-Gatewood rendered her decision in a case that had been looming over the island since 2011, that of Arnold Davis v. the Guam Election Commission.

Davis, a Caucasian man who has been a long-time resident of Guam, sued the Government of Guam in 2011 over a proposed self-determination plebiscite that was designed to ensure the voices of the island's native inhabitants would be heard in terms of determining a future political status for the island. Per current Guam law, Davis does not meet the requirements of a native inhabitant of Guam, or those eligible to participate in the self-determination plebiscite. He sued the Government of Guam on the basis that the plebiscite was "discriminatory" and "unconstitutional."

Justice Tydingco-Gatewood ruled in favor of Davis, basing her decision on a very narrow reading of US law. She called for the vote to be opened to any and all residents of Guam.

The problems with this ruling are apparent, even absent any legal training. In general, a process of decolonization that must follow the rules of the colonizer is not decolonization: it is an extension of colonization. It is a transformation of colonization into another form, while protecting the same structures of power and inequality.

If we dig deeper, however, we see even more problems. Firstly, the plebiscite is not race-based, but instead time-based. Those who are native inhabitants and can vote are those who were residents of Guam (and their descendants) at a time when the US Congress recognized that Guam had a unique and definable "people" through the passage of its Organic Act for the island in 1950. This population was comprised of approximately 90% indigenous Chamorro people, and 10% other

groups that had made Guam their home. Secondly, the court deemed that a self-determination plebiscite is of the same character as voting in regular elections within a polity. Rather than acknowledge the vast amount of history around the world on this issue, where dozens of countries underwent their own struggles for self-determination and held plebiscites to determine their next steps, the federal judge simply interpreted a self-determination plebiscite as an election and applied the US constitution to it without any reasonable or rational context.

When the court heard arguments on the case last year, Davis' attorney had gone so far as to claim that international law doesn't exist and no one knows what it is. Unfortunately, the district judge chose to agree with his vapid assessment, and her decision refused to acknowledge any relevance to international law or conventions in deciding this case. Finally, advocates of decolonization in Guam have long charged the administering power with rank hypocrisy, due to the way it selectively applies the US Constitution to the island and its indigenous people.

This decision had a chilling effect on activities that were already underway to educate the Guam community as to the three basic political status options. There was a great deal of confusion, especially among the island's indigenous community, as it appeared that the US federal government was denying their existence and their rights, including their right to restorative justice.

The administering power's lack of concern for UN resolutions and conventions, and its own obligations with regards to the maintenance and support of non-self-governing territories, has led to decades of policies which have increased the US military presence to the island of Guam and dramatically increased the number of non-Chamorros to the point where Chamorros now only make up 37% of the population.

This plebiscite is meant to assist in determining the desires of Guam's indigenous people, after being ignored or shut out of power for centuries. The decision of the US district court brings us to the odious point where now someone who has been on the island for just a few minutes can be considered to have just as much right to the island as someone whose family has been there for thousands of years.

The Guam Legislature was quick to respond to the threat posed by the Davis decision. Senator Therese Terlaje authored a resolution calling on the island's attorney general to appeal the Davis decision and defend the right of Guam's native inhabitants to determine their destiny without overt or undue interference by the administering power. The public hearing on this bill lasted six hours and was attended by more than a hundred community members, all expressing frustration over the Davis decision and supporting an appeal. The resolution passed soon after.

This hearing was followed by weeks of protests, demonstrations, and forums, all of which culminated in a large rally held on April 7th, attended by more than 800 individuals. The rally was organized by a grassroots collective under the theme of "Respect the Chamoru People." It was a multi-cultural event meant to provide a space where people of all ethnic backgrounds on Guam could come together to show their support for the Chamorro people and their continuing quest for decolonization. On that same day, the attorney general of Guam, Elizabeth Barrett-Anderson, announced her intention to appeal the Davis decision.

Over the past year, the island lost one of its staunchest advocates for decolonization, Ed Benavente, who was a Maga'låhi, a traditional male leader, of the protest group Nasion Chamoru. At this time of uncertainty, young and old have taken some of his words to heart: "I may not see decolonization in my lifetime, but I can leave this world knowing that the next generation will continue to fight for the rights of our people."

Si Yu'os Ma'åse para i tiempon-miyu. Thank you for your time.