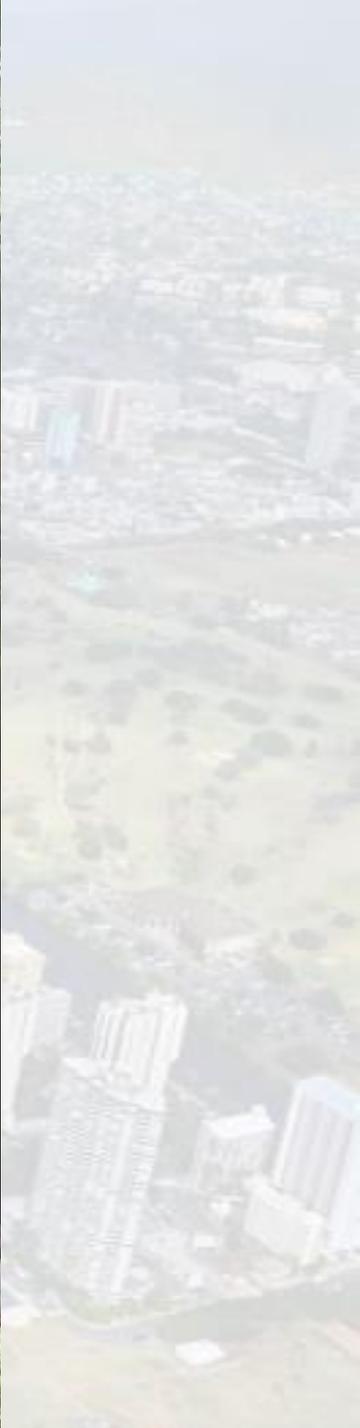


An aerial photograph of a city, likely Honolulu, Hawaii, showing a dense urban landscape with numerous high-rise buildings and a large body of water in the foreground. The image is slightly faded to serve as a background for the text.

This is not America:

**The Acting Government of the Hawaiian Kingdom
Goes Global with Legal Challenges to End
Occupation**

by Dennis Riches



This is not America: The Acting Government of the Hawaiian Kingdom Goes Global with Legal Challenges to End Occupation

1. History of Hawai'i: 18th 19th 20th and 21st centuries
2. Political approaches vs. legal approaches
3. Formation of the acting (provisional) government
4. Methods, goals and prospects for success
5. A model for other Pacific Island nations?



The Hawaiian Islands in the late 18th century

- Before Western contact the islands were not unified.
- Each island was its own political entity, with factional fighting within each one and occasional conflict between the islands.
- The land produced a surplus which enabled the rise of a hierarchical, feudal warrior culture.
- Upon the first encounters with Europeans, the Hawaiian kings found they shared a common political structure with these newcomers, in spite of wide differences in culture and religion.
- Hawaiians cautiously allowed missionaries and sailors to enter, but only for the purpose of learning from them and avoiding being colonized.

The Hawaiian Islands in the early 19th century

- By 1795 Kamehameha I had unified the islands as a single political entity, in some cases by violent conquest.
- He made use of Western advisors and technology, and he was quick to understand that Hawai'i faced a threat of subjugation from one of the great powers—Russia, France, the Netherlands, Britain or the United States.
- Subsequent monarchs followed Kamehameha's policy. They quickly established equal treaties with many nations, established Western forms of law and governance, and thereby achieved recognition as an independent state in 1843.
- They were ahead of Japan in this regard, and the Meiji Emperor even sought the assistance and advice of the Hawaiian king in 1872.

The Hawaiian Islands in the late 19th century (1)

- Although Hawai'i had success in modernizing and catching up to the West, there was a price to pay.
- A modern state required a well-supplied treasury; thus, the monarchy allowed an industrial-scale, plantation economy to develop.
- This had a disastrous effect on traditional agriculture and demographics. Plantation owners brought laborers from various nations.
- Meanwhile, the native population declined quickly due to poverty and exposure to new diseases.
- There was growing international awareness of the strategic importance of Hawai'i, which had the only deep-water port (Pearl Harbor) for thousands of miles.

The Hawaiian Islands in the late 19th century (2)

- These contradictory forces led to the crisis of the 1890s. The economic demands of the oligarchs led them to demand political control.
- Many of these men had become Hawaiian citizens but they were culturally American or European.
- While the monarch expressed a wish to reform the constitution in a way that would protect the native population and culture, the oligarchs plotted with the American ambassador (who was following secret instructions from US president Harrison) to use the crew of an American navy vessel to support their overthrow of the kingdom. They succeeded and established a government they called The Republic of Hawaii.
- The queen was taken prisoner, but she refused to surrender, and she appealed to the new American president, Grover Cleveland, to help restore her government, but the situation remained unresolved.

The Hawaiian Islands in the late 19th century (3)

- The United States unilaterally annexed the illegally installed Republic of Hawaii in 1898 during the Spanish-American war.
- In this long, slow process, the Hawaiian Kingdom was never extinguished through a treaty of surrender.
- The contemporary Acting Government of the kingdom builds its case upon the illegality of both the 1893 overthrow and the 1898 annexation by the US Congress.

The Hawaiian Islands in the early 20th century

- Hawai'i became a US territory.
- The government adopted a program of de-nationalization.
- Knowledge of the true nature of the kingdom (an independent, multi-cultural, bilingual modern state) was replaced with a conception of native Hawaiians as an indigenous Indian tribe with an unsophisticated political structure—a "playhouse kingdom," as Mark Twain described it.
- Superficial aspects of Hawaiian culture (hula, surfing, traditional clothing) were maintained to lessen resentment of the Americanization of the islands, but in general the culture was wiped out. Under the laws of occupation, every aspect of the de-nationalization process was a war crime.
- The arrival of Americans led to the importation of racism and other social problems that didn't exist previously.

Under international law an occupying power cannot:

- degrade the natural environment or exploit it for its own gain.
- make the local population vulnerable to nations hostile to the occupying power (such as storing nuclear weapons)
- settle its own citizens or citizens of other nations on the occupied territory.
- strengthen or reinforce its own position.
- take actions which erode local culture, language and traditions.
- enact laws that are contrary to the letter, spirit and intent of local law.

The Hawaiian Islands in the late 20th century

- Hawai'i was declared an American state in 1959. The arrival of Boeing jets transformed the islands by bringing the era of mass tourism.
- The economic boom enabled the expansion of education.
- The progressive trends of the 1960s and 1970s (such as the anti-war movement, the American Indian Movement) inspired a revival of Hawaiian culture and awareness of past injustices.
- Hawaiian language and culture studies were established and expanded over the next decades at the University of Hawai'i.
- The Hawaiian language was revived and is now taught and used throughout the state.

The Hawaiian Islands in the early 21st century

- The Acting Government of the Hawaiian Kingdom was established as an alternative to the approach to independence taken since the 1970s.
- It was a legalistic rather than a social sciences approach.
- The social sciences approach indigenized the problem—defined a person as Hawaiian by blood lineage and falsely described Hawai'i as having been colonized.
- The approach in the social sciences sought corrective measures for ethnic Hawaiians for past injustices, and it argued for self-determination (independence) or special status and privileges for ethnic Hawaiians within the American State of Hawaii.

The problems with indigenization

- The Acting Government saw this as a deeply flawed approach.
- The blood quantum requirement would lead eventually to the extinction of Hawaiian culture and ethnicity, through inter-marriage and immigration.
- It denies the fact that in the Hawaiian Kingdom, people of various ethnicities were Hawaiian citizens.
- It denies the fact that the Hawaiian Kingdom was illegally overthrown and annexed in the 1890s, and that it is still an occupied state under international law.
- The documents that support this view have been preserved in archives—there are treaties, passports, citizenship papers, petitions, legal documents and so on.
- This documentation has enabled people alive today to prove, by tracing their ancestry, that they are citizens of the Hawaiian Kingdom and thus they can bring cases as individuals to international courts.

Formation of the Acting Government, a.k.a. the Provisional Government

- The Acting Government was formed in 1995, and it has become a recognized provisional government, like other well-known provisional governments in history, such as the French and Belgian governments in exile during WWII.
- Professor Sai has been active in two capacities:
 1. As a student and later a faculty member at the University of Hawai'i.
 2. As the interior minister for the Acting Government (AG).
- The AG has brought several cases against various entities, the US government, the American State of Hawaii, Switzerland, Canada, and it has gone to the International Court of Arbitration in The Hague.
- The AG has also challenged the legality of land title in Hawai'i, highlighting the illegitimacy of land registration and mortgage lending in the state.



Why does the AG take cases to Switzerland, Canada and other countries?

- All the countries which have treaties with the Hawaiian Kingdom have a problem they have never resolved.
- They conducted business in the American State of Hawaii without ever extinguishing their old treaties with the kingdom.
- The AG went to Canada in 2015 to lodge a complaint of war crimes against a Canadian company that is a partner in the Thirty Meter Telescope project. This company obtained permits from the American State of Hawaii when it should have applied to the Hawaiian Kingdom.
- In this way, the AG demonstrates that all activities in Hawai'i that require legal authorization (business registration, marriage, death, taxation, land registration, licensing, diplomacy) have no foundation in law.

Methods, goals and prospects for success

- International law is not like domestic law. It cannot force parties to appear to face charges, and the United States has never appeared in an international court to answer these claims by the AG.
- Thus, the activities of the AG may appear to be futile.
- However, the AG has chosen this path for several reasons:
 - It creates a solid framework for understanding Hawaiian history and corrects the false understandings of the social sciences approach.
 - It will lay a foundation of knowledge among people in Hawai'i, preparing them for the day when the issue will be in the spotlight and political backlash will come.
 - Attention can be directed at foreign countries that have to operate in Hawai'i—foreign consulates have no legal basis, tourists should not be obliged to pay hotel tax, Swiss banks are not authorized to open branches there, and so on...
 - When these foreign nations realize they must act in order to stop participating in war crimes, things may change quickly.
 - Russia and China could take up the issue at the UN Security council if the US continues to accuse them of disrespect for international law on other matters (Taiwan, Tibet, Crimea).

A model for other Pacific Island nations?

- This dilemma has enormous strategic implications for the United States.
- The United States has declared that they would never "give up" Okinawa, which presumes they would take it by force if Japan ever asked them to leave. Thus, giving up Hawai'i (HQ for the Pacific Command of the US military) would be beyond consideration.

West Papua, fighting for independence since the deeply flawed referendum that allowed for rule by Indonesia



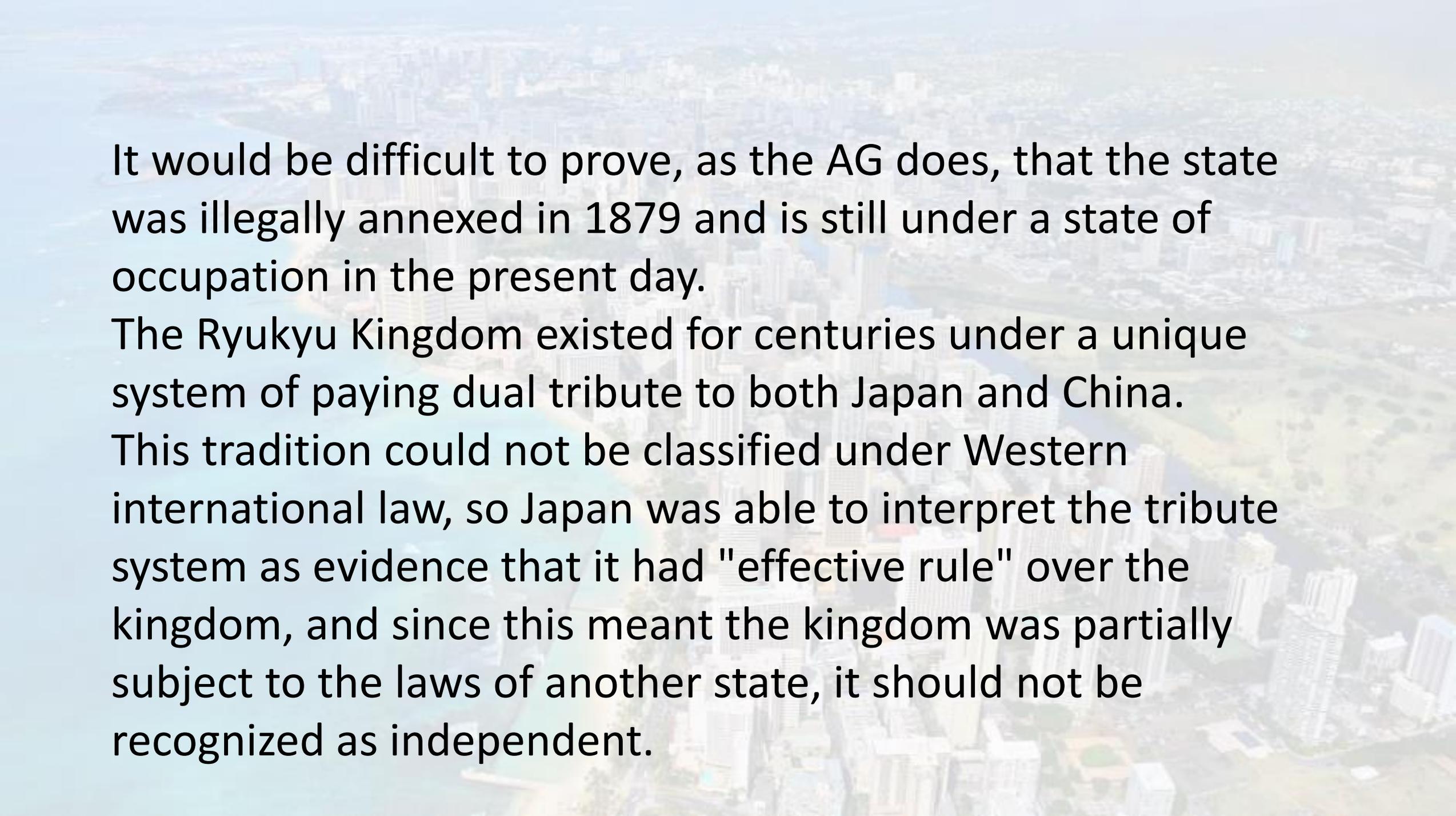
As for Okinawa, does the strategy of the AG offer a model for those who would like to expel American bases and make Okinawa an independent nation?



An assessment of the Ryukyu Kingdom compared to the Hawaiian Kingdom

The status of the Ryukyu Kingdom (the former name of the Okinawan archipelago) as an independent state, under the emerging 19th century system of international law based on Western norms, is open to debate.

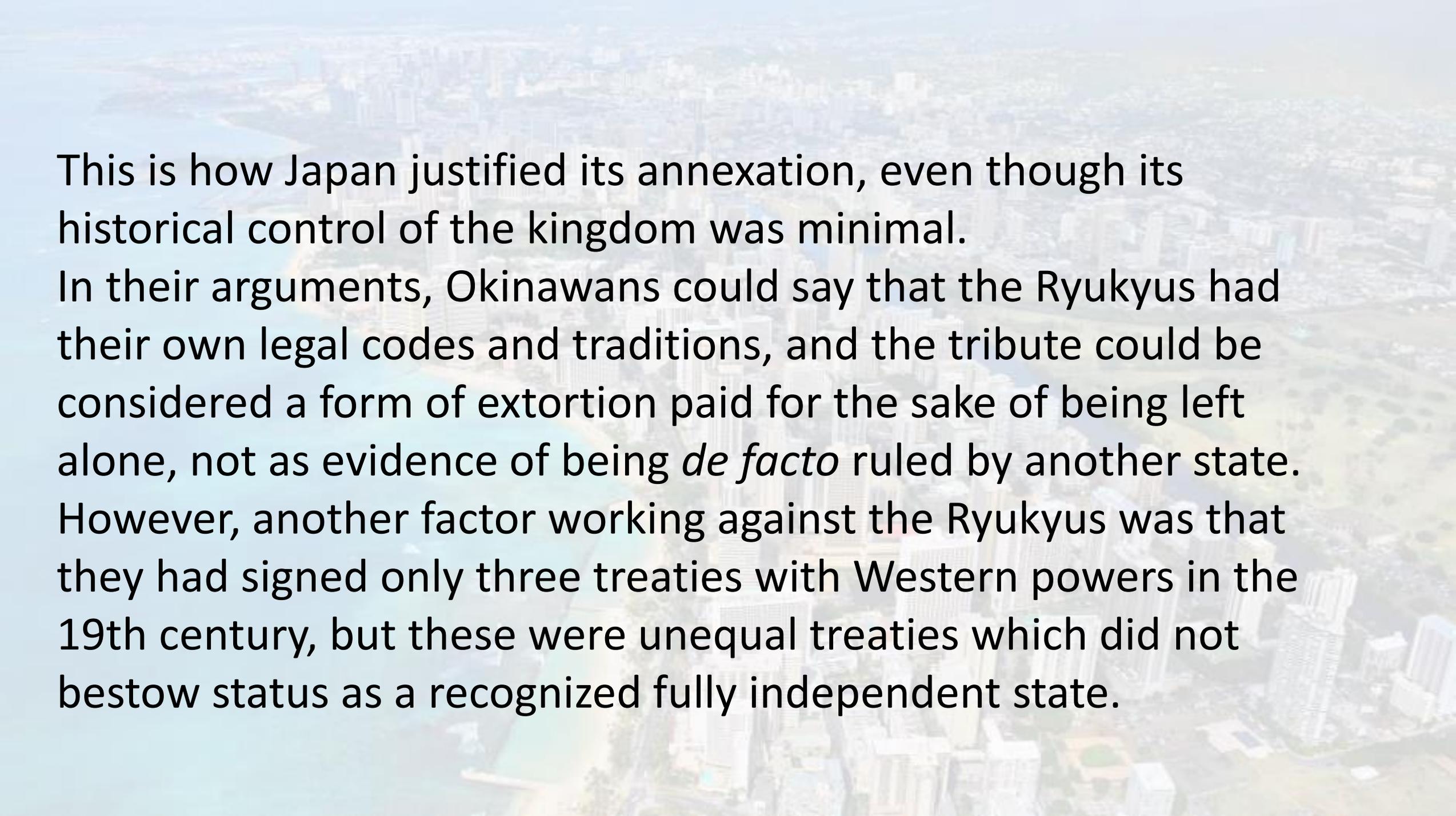
Okinawans also have options to pursue independence through direct referendum according to rights granted for self-determination by the Japanese constitution and the United Nations. They do, after all, have a distinct history and culture upon which to base this claim. However, Okinawans would have more difficulty than Hawai'i in building a case under international law that they were once a fully independent state.



It would be difficult to prove, as the AG does, that the state was illegally annexed in 1879 and is still under a state of occupation in the present day.

The Ryukyu Kingdom existed for centuries under a unique system of paying dual tribute to both Japan and China.

This tradition could not be classified under Western international law, so Japan was able to interpret the tribute system as evidence that it had "effective rule" over the kingdom, and since this meant the kingdom was partially subject to the laws of another state, it should not be recognized as independent.

An aerial photograph of a city, likely Tokyo, showing a large stadium in the foreground and a dense urban landscape with many skyscrapers in the background. The image is slightly faded and serves as a background for the text.

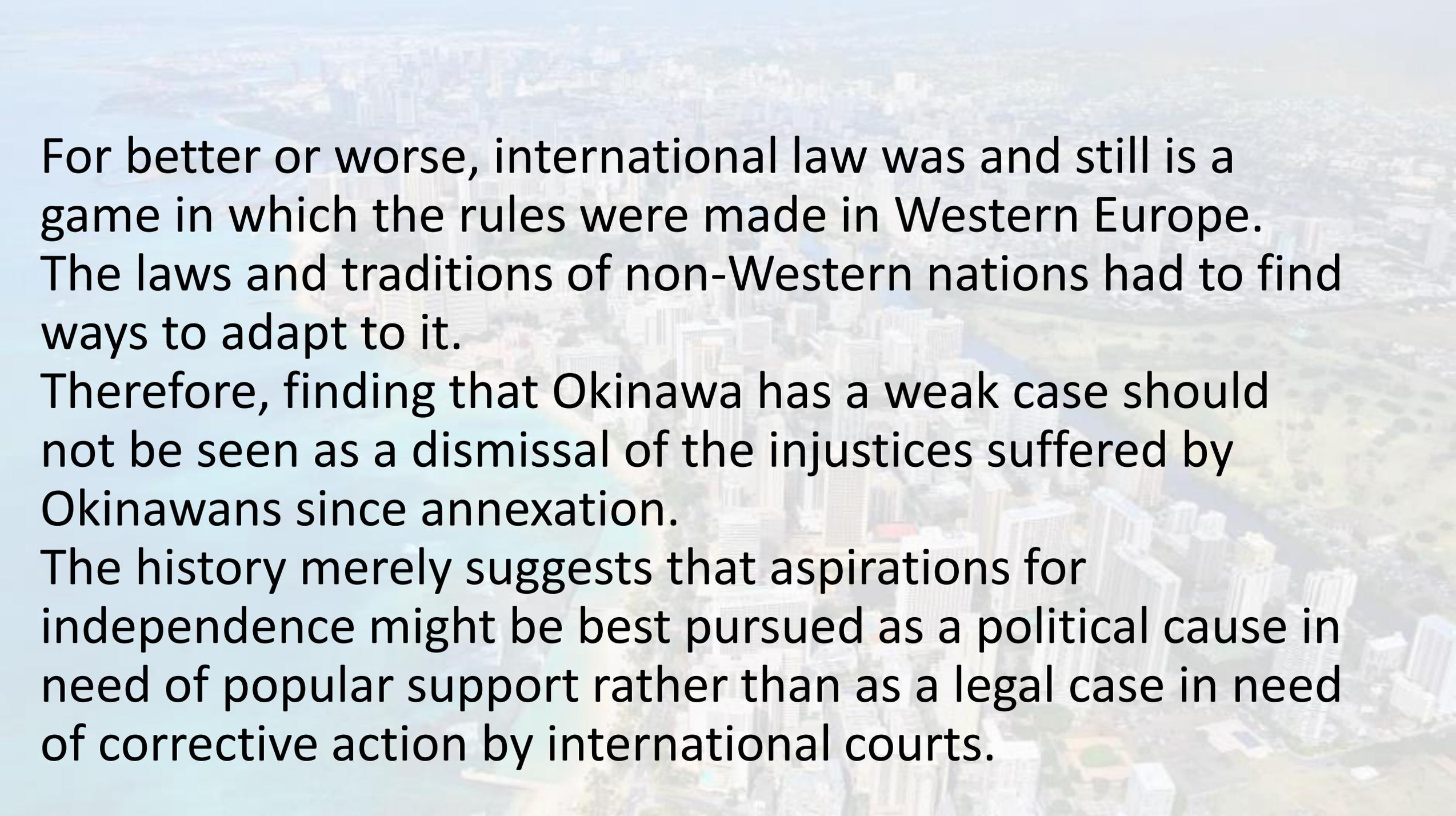
This is how Japan justified its annexation, even though its historical control of the kingdom was minimal.

In their arguments, Okinawans could say that the Ryukyus had their own legal codes and traditions, and the tribute could be considered a form of extortion paid for the sake of being left alone, not as evidence of being *de facto* ruled by another state. However, another factor working against the Ryukyus was that they had signed only three treaties with Western powers in the 19th century, but these were unequal treaties which did not bestow status as a recognized fully independent state.

An aerial photograph of a city, likely Tokyo, with a large stadium in the foreground. The city is densely packed with buildings, and the stadium is a prominent feature. The image is slightly blurred and has a soft, hazy appearance.

These treaties were just a first step on the way to full membership in the emerging international order. Under these treaties, foreign nationals were exempt from Ryukyu Kingdom law. Japan also had unequal treaties with the Western powers at this time and was having much trouble gaining recognition as an independent state.

The disposition of the Ryukyu Kingdom by Japan could be compared to Kamehameha I taking O'ahu and other islands by force into the Hawaiian Kingdom in 1795. Both events occurred before these nations had been recognized as fully independent states under the system of international law.

An aerial photograph of a city skyline, likely New York City, with a semi-transparent white text overlay. The text is in a black, sans-serif font and is arranged in four paragraphs. The background shows a dense cluster of skyscrapers and buildings, with a hazy sky above.

For better or worse, international law was and still is a game in which the rules were made in Western Europe. The laws and traditions of non-Western nations had to find ways to adapt to it.

Therefore, finding that Okinawa has a weak case should not be seen as a dismissal of the injustices suffered by Okinawans since annexation.

The history merely suggests that aspirations for independence might be best pursued as a political cause in need of popular support rather than as a legal case in need of corrective action by international courts.

Kiko Nishizato summed up the shortcomings of the Ryukyuan situation:

*Had those Ryukyuan, who evolved a 'Ryukyuan Salvation Movement,' instead of treating the tribute order as absolute, been able to respond to the dawning of the new era, taking account of the proposals of Ueki Emori and Guo Songtao as possible ways forward and forging links with the kingdoms of Korea and **Hawai'i** or with Vietnam, they might have been able to find a new way forward. But the Ryukyuan who plunged into the Salvation Movement treated the traditional tribute order as absolute and just sought the help of the Qing [Chinese] authorities to restore the Ryukyu Kingdom. That was their historical limitation.*

Source: Kiko Nishizato, "Higashi Ajia shi ni okeru Ryukyu shobun (The Disposition of the Ryukyu Kingdom within the History of East Asia)," *Keizaishi Kenkyu*, no. 13 (February 2010): 74, quoted in Gavin McCormack and Satoko Oka Norimatsu, "[Ryukyu/Okinawa, From Disposal to Resistance](http://apjjf.org/2012/10/38/Gavan-McCormack/3828/article.html)," *Asia-Pacific Journal*, September 9, 2012, <http://apjjf.org/2012/10/38/Gavan-McCormack/3828/article.html>.

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