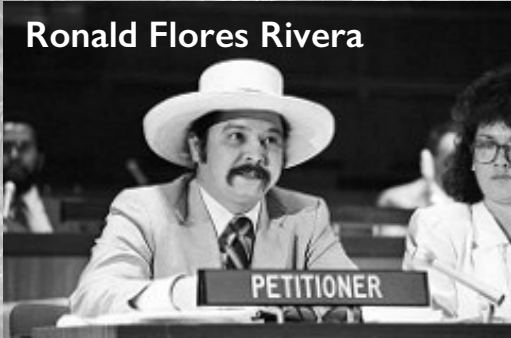


Hita La'mon: Hasso Independence

Ronald Flores Rivera



“If a history maker is one who contributes significantly to the social, political, or economic evolution of a community, then we in Guam are laying to rest a history maker, my good friend and confidant, Ronald Flores Rivera ... Whether it was in congressional hearings, presentations at the United Nations, village meetings in Guam, or simply talking with tourists on the beach, Ron’s friendly manner and quiet dignity never failed. He was sure and proud of his heritage and sincere in his advocacy of the Chamorro people.”

-Hon. Robert Underwood, tribute, October 5, 2001, U.S. Congress

Does the U.S. Constitution Work for Guåhan?

- The Insular Cases determine that the application of the US Constitution in unincorporated territories like Guåhan is decided by Congress. Thus, the US Constitution does not fully apply in the territories.
- The US Constitution can be used to work against Chamoru sovereignty and self-determination as evidenced in the Davis v. Guam ruling, which determined that a vote reserved for the native-inhabitants of Guam, who were colonized, was race-based discrimination and unconstitutional.
- The US Constitution does not protect Chamoru land rights and is instead being used against Chamorus in a lawsuit claiming the Chamoru Land Trust violates the Fair Housing Act and is race-based discrimination.
- When decisions are made about Guam in US Congress, US strategic interests trump all concerns raised by community members, landowners, local government officials, and environmental and legal experts, as is the case with the publicly contested plans to build a US Marines’ live fire training range complex above Litekyan (Ritidian).
- The US Constitution was not written to protect the peoples of unincorporated territories. It is often used, instead, to maintain US hegemony.
- Guam’s most recent act of self-determination — the Guam Commonwealth Act — was consistently opposed by the administrations of Presidents George H.W. Bush and William J. Clinton, “...focusing their objections on issues of sovereignty, constitutionality and policy continuity, and arguing that the proposal sought a composite status that included incompatible aspects of independence, free association, commonwealth and statehood. The bill would authorize the exclusion of US citizens [the settler population], based on ethnicity, from a vote on ultimate status, which federal officials said conflicted with constitutional protections against non-discriminatory voting. Other provisions, they argued, ran counter to strategic defense interests and territorial policy. The measure was never reported out of committee.” (source: <http://www.guampedia.com/guam-commonwealth-act/>)

Have the People of Guam written a constitution?

- Two Constitutional Conventions were held on Guam — the first from June 1969-June 1970 and the second from July-October 1977. In a Referendum held in August 1979, 82% of Guam voters rejected the Constitution that was drafted for the following reasons: “ [The] Constitution was not really a local expression of self-determination; [and the] political status question remained unresolved in Guam. These primary reasons for rejection stemmed from the imposition of a US federal mandate on the drafting of the constitution that stipulated that any constitution for Guam not violate the existing federal-territorial relationship.” (source: <http://www.guampedia.com/guam-constitutional-conventions-concon/>)
- In the 1970s, the People’s Alliance for Responsive Alternatives and the People’s Alliance for Dignified Alternatives (PARA-PADA) joined together against the constitution citing that Guam needed a self-determined political status change before developing a document of such magnitude. “Opposition to the Constitution came ... due to the claim that a constitution put the carabao before the cart. We needed to design a political future first, agree to a political status and then build the governance structure around it.” (Source: Dr. Robert Underwood, “Dies Mit: The Origin and End of Chamorro Self-Determination”, Micronesia Educator, Special Edition, 2016)

Genuine sovereignty is imperative

While it has been proposed that Guåhan consider drafting a constitution and becoming a Congressionally recognized Native American Tribe, it is important to consider how Federal Indian laws have facilitated the continuation of colonialism. On the basis of non-sovereign "tribal sovereignty," the United States has built an entire apparatus for dispossessing indigenous peoples of their lands, their social organizations, and their original powers of self-determination. The concept of "American Indian sovereignty" is useful to the United States because it denies indigenous power in the name of indigenous sovereignty." "In the words of Chief Justice John Marshall in *Cherokee Nation v. Georgia* (1831), American Indian societies, though they are 'nations' in the general sense of the word, are not fully sovereign, but are 'domestic, dependent nations.'" (Source: University of Massachusetts Amherst Professor Emeritus of Legal Studies Peter d'Errico, "American Indian Sovereignty: Now You See It, Now You Don't", <http://www.umass.edu/legal/derrico/nowyouseeit.html>)

Learning from an Independent Model Nation: : South Africa

South Africa is the prime example of a nation that has decolonized and used its history and diverse peoples to create a constitution that is inclusive, healing, and focused on moving forward together. The struggles of South Africa's indigenous peoples under colonization and apartheid and the lasting effects it had on them guided the country's constitutional convention. The drafters of the South Africa Constitution were determined to never repeat the racism and oppression of the Apartheid era again. Their Constitution sought to reconcile the nation and heal the wounds of the past, as exemplified in its Preamble:

"We, the people of South Africa, recognise the injustices of our past; honour those who suffered for justice and freedom in our land; respect those who have worked to build and develop our country; and believe that South Africa belongs to all who live in it, united in our diversity. We therefore, through our freely elected representatives, adopt this Constitution as the supreme law of the Republic so as to heal the divisions of the past and establish a society based on democratic values, social justice and fundamental human rights; lay the foundations for a democratic and open society in which government is based on the will of the people and every citizen is equally protected by law; improve the quality of life of all citizens and free the potential of each person; and build a united and democratic South Africa able to take its rightful place as a sovereign state in the family of nations."



The South Africa Constitution has greater protections for individual rights and the distinct rights of the indigenous peoples of South Africa than the US Constitution. The protection of cultural groups and the recognition of their languages is written into the document. Opposition to racism and sexism is also explicitly expressed in the Constitution.

South Africa is one of many great model constitutions that have been written by independent nations that can be used to inspire Guåhan in the drafting of our own constitution. We have a world to learn from as we move forward.

Nihi Ta Hassuyi Este (Questions to Consider):

1. What would you include in the Preamble to an Independent Guåhan's Constitution?
2. What specific rights should be constitutionally protected in an Independent Guåhan?