



CHAMORRO SELF-DETERMINATION

Edited By:
Laura Souder-Jaffery
and
Robert A. Underwood

CHAMORRO STUDIES ASSOCIATION

The Chamorro Studies Association (CSA), a non-profit organization, was founded in 1976 and incorporated in 1987 to coordinate efforts in the teaching of Guam history, Chamorro culture, and the Chamorro language. In addition, CSA aims to conduct and disseminate scholarly research on Chamorro history, culture, and language; and, to promote the works of indigenous Chamorro scholars as a means of developing Chamorro Studies. The organization also seeks to create communication and resource-sharing networks among educators, professionals, and others interested in Chamorro Studies. Recognizing that its consciousness-building objective could best be fulfilled through the widespread dissemination of information on issues affecting Chamorros today, the CSA has recently established a publications program. This volume is CSA's first publication.

CHAMORRO SELF-DETERMINATION:

**The Right of a People
I Derechon I Taotao**

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PREFACE

Guam has witnessed the popularization of the term *indigenous* in the Eighties. Responding to the articulation of Chamorro self-determination as an issue of indigenous rights, a growing number of people on Guam now view the political status question in terms of the concept of indigenous rights.

To be indigenous, to be Chamorro in Guam society in the 1980s, is both a source of inspiration and a source of trepidation. On the one hand, Chamorros can take legitimate pride in their accomplishments as a people and their capacity to survive colonial governments, wars, and natural disasters. They can take justifiable pride in the rebirth of cultural consciousness and the celebration of their heritage. This is part of the Chamorro search for identity and expression as Chamorros. However, the same experience has taught them to be wary, to be concerned about their ultimate fate. There is a real fear that Chamorros will cease to exist as an identifiable and distinct cultural group. There is a real fear that current social and economic trends do not actively involve them and that Chamorros will become a permanent underclass in their homeland. There are already signs of this emerging reality in the demographics of educational underachievement, the nature of the prison population, and the rate of outmigration.

Inspired by their own heritage and motivated by their own history, today, many Chamorros are articulating issues pertaining to their existence as a people. They articulate, define and seek redress to issues not merely as participants in an American body politic, but as members of an indigenous people

whose cultural institutions predate any of the social, economic, and political institutions which currently hold sway on Guam. This spirit has fueled the movement for Chamorro self-determination, inspired the artistry of the island's creative community, and motivated the quest for the return of stolen lands. In this respect, all things concerning Chamorros have an underlying unity and a common source of strength.

In this collection of readings, Chamorros have brought together their ideas and perspectives of various issues related to their survival as a people. Commonality is to be found not only in the fact that the authors and subjects are Chamorro, but also in the reality that all issues concerning Chamorro people can ultimately be resolved through only one process -- that of self-determination.

Life for any human, for any group of people, is meaningful only when one's own decisions matter and when one's own choices are made in a free environment. Land issues, reparations concerns, cultural expressions, and educational reforms for the Chamorro people really add up to self-determination. Without this process, there can be little else.

These readings not only bring to light the concerns surrounding self-determination but serve to remind us that all activities of a colonized people must be directed towards liberation. And, that true liberation can only come when one takes action for oneself.

The future political status of Guam is of immediate concern to island residents. The Guam Commonwealth Act is scheduled to be voted on through a "plebiscite" on August 8, 1987. The salient issues incorporated into the Act need to be discussed and

understood from a perspective that seeks to protect the inalienable rights of Chamorros. Controversy and misunderstanding about indigenous perspectives on such issues as federal-territorial relations, voting rights, land rights, economic and legal restrictions, and immigration abound.

The Chamorro Studies Association, in its efforts to contribute to community awareness and discussion on these issues, offers this volume. We hope that the contents of this book will provide a basis for thoughtful introspection and critical examination of the political status question in view of the rights of the Chamorro people to self-determine their future.

The need to be informed about the issues that we face as a people has never been more critical, especially in view of the upcoming "plebiscite" on the Guam Commonwealth Act. The urgency of presenting this collection of readings prior to the August 8th "plebiscite" in order to clarify and stimulate discussion on some of the issues contained in the Act accounts for the inclusion of various styles of reference in the text. A selected bibliography at the end of the book includes sources of major importance, which are cited in the text.

We extend our heartfelt appreciation to the contributors; to Roger Faustino for designing the cover; to the CSA members, Al Williams of the Micronesian Area Research Center, Debbie Freitas for assisting with the layout, and others who have helped in the preparation of the manuscript; and most especially to our benefactors, whose generous contributions funded this publication.

Laura Souder-Jaffery
Robert A. Underwood
July, 1987

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Dr. Laura Souder-Jaffery has a Ph.D. in American studies from the University of Hawaii. She is an outspoken advocate of women's rights and is a staunch supporter of traditional arts. Dr. Souder-Jaffery, a founding member of CSA, has made many contributions through the years to the growth of Chamorro studies. Her most recent contribution is her book on Chamorro women organizers of Guam. Dr. Souder-Jaffery will begin teaching Guam and Micronesian History at the University of Guam this fall.

Honorable Benjamin F. Cruz presides over the Juvenile and Family Court of the Superior Court of Guam. As a private attorney, Mr. Cruz donated countless hours performing legal services for such diverse organizations as the Organization of People for Indigenous Rights, PARA-PADA, and other grassroots movements. He continues to be active in Chamorro organizations especially those which promote and enhance the lives of the Chamorro people.

Mr. Robert A. Underwood has been a Professor at the University of Guam for over a decade and is well-known for his advocacy of the Chamorro language and Chamorro self-determination. He has made presentations relative to bilingual education, Chamorro self-determination, the Chamorro language, and cultural change in a wide variety of scholarly forums throughout the world. He has an Ed. D. from the University of Southern California.

Mr. Chris Perez Howard is an active proponent of political status issues which will benefit the Chamorro people. He has contributed to Chamorro studies through his own biography about his mother who died during World War II. In the past few years, he has been involved in several political actions groups and has worked as a writer, a consultant to

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I DERECHON I TAOTAO

Rosa Salas Palomo

As language is the umbilical cord of culture, we recognize the centrality of, and the necessity to promote, the Chamorro language in any effort which seeks to improve and strengthen the status of the Chamorro people. We cannot afford to treat issues of language separate from land, immigration, economic development, and political status concerns. For Chamorros, these issues are all intrinsically bound together in our struggle to exercise our inalienable right of self-determination. It is fitting that we demonstrate our commitment to the Chamorro language and all that it embodies by beginning this volume of readings with a discussion of self-determination in Chamorro. (The Editors)

Guaha un kadada' na estoria kulan asentadu para u tinituhon este na tinige'. Annai gaige i lahi-hu gi sigundo gradu manhanao yan todos i famagu'on gi kuatto-na para u ma bisita i palasyon i Maga'lahi gi Ekso' San Ramon. Manma fa'nu'i i famagu'on un litratu ya mansinangani ni' sekretarian i asaguan i Maga'lahi na estaguiya na taotao dumeskubre Guahan. Ensigidas manoppe hulo' i lahi-hu na i ManChamorro dumeskubre Guahan, ahe' ti si Magellan.

Maskeseha ti klaru put hafa na rason na ma dingi i orihinat na tano'-niha i fine'nana na taotao ni' manma o'onra komu siha i tinituhon i gurupon taotao ni' ManChamorro, en fin annai mana'yok gi inai Guahan ma kontinuha ha' manla'la'. Siha ha' dumisiden maisa hafa siha para u ma cho'gue gi todru i kinalamten-niha gi nuevo na sinedda'-niha tano'. Siguru na meggaina gi che'cho'-niha para minaolek sa' lameggai na ManChamorro manma sodda' ni' Espanot annai ma 'diskubre' Guahan. Gef impottante este na mumento sa' matai ha' guihi i direchon-niha i ManChamorro para u disiden maisa i kinalamten-niha.

Este na tinige' put este na asunto i dinetetminan maisa, pat 'self-determination'. Gef impottante este sa' ti apman hit todos manhuyong para ta fanmambota kao para to akseptu pat disapueba i ma

prupoponi na Akton 'Commonwealth'. Ti bai hu fangge' put i ginagao kada attikulu gi Akto. Lao, ya-hu tumaka' los kuantos na hinasso-ku siha ni' sina umayuda yan numa'i hit mas chansa para ta chule' yan ehetsisio i derecho-ta para ta disiden maisa hafa malago'-ta para i kinalamten i tano'-ta, Guahan, yan i manachataotao-ta, i ManChamorro. Sasaonao guini siha na hinasso i asunto put lengguahi, kultura yan i eskuela.

Ha rekognisa i ma prupoponi na Akton 'Commonwealth' na hita i ManChamorro i natibu na taotao Guahan, guaha direcho'-ta para to detetminan maisa i kinalamten yan estao pulitikat-ta. Gi papa' este, klaru para guahu na siempre takhilo' na diniside i lina'la'-ta gi manmamamaila' na siglos siha. Yanggen para ta fanggagaige yan fanmemetgot ha' guini gi tano'-ta, nisisita na ta prutehi i lengguahi-ta yan kultura-ta.

Gof taddong gi kurason-hu i kinalamten i kultura yan lengguahi. Hu gof hongge na i lengguahi numana'i minetgot un gurupon taotao; este na minetgot i para u ma konsigi i kinalamten yan lina'la'-niha gi tano'. Gigon ha' mafnas i lengguahen-niha, ma funas ha' lokkue' i kultura, pues i mismo gurupon taotao. Put uttemo, ayu ha' siempre sobpla put i ManChamorro i manma tuge' gi lepblo siha ya meggaina biahi na tinige' taotao hiyong.

Taya' esta sina ta cho'gue para ta na'suha i fino'Engles gi tano'-ta yanggen ta hongge na tod u para ta cho'gue para i minaolek na kinalamten i famagu'on-ta. Mampos esta didok yan nisisario i ma usani fino'Engles guini gi ya Guahan. Yanggen manmalago' hit na tod u i famagu'on-ta u fanggai chansa para u ma chagi yan ufanla'la' gi tano' ManChamorro yan i tano' taotao lago, pues siempre ha' ta na' oputunilat na u ma achatungo' parehu i fino'haya yan i fino'lago.

Maskeseha guaha didide' ha sangan i Akto put i ma prutehen i kutturan i taotao i tano' mismo, hafa taimanu este ma cho'gue yanggen taya' hafa ma na'klaru put i ma usan i fino'Chamorro? Yanggen i lengguahi muna'siguguru i ma kontinuhan i kinalamten yan i lina'la' un gurupon taotao, hafa gi kultura para u ma kontinuha fuera di ayu siha i sina ta sen li'e, humungok yan tumanna'? Sen siguru na manmatai siempre ayu siha na patte gi kultura ni' manggai fundamento yan dumeferensiasiao hit yan otro siha na gurupon taotao. Ginen i lengguahi-ta na ta tutungo' i rihilasasion entre i manaina yan i famagu'on, i kinalamten i familia yan manatungo' siha parehu gi tiempon minagof, chinatsaga pat finatai, yan lokkue' ayu siha gi lina'la' ni' ta na'huhuyong i kinemprenden ina'afa'maolek, ina'ayuda, yan respetu para tod u.

Guahu fine'nana bai hu atmiti na gai impottante i fino'Engles gi ya Guahan, lao achaparehu ha' yan i fina'-ta, i fino'Chamorro. Sigon gi inatatan-hu, kulan guaha fafatta yanggen hu li'e i taotao-ta manmanunchuchule' gi fino'Engles. Mas gai sustansia yan put mas, kabales este na kinemprenden ina'afa'maolek yan ina'ayuda yanggen ma na'la'la' gi mismo hula' annai ma tutuhon.

Taya' problema-hu put i ma usan yan i impottanten i fino'Engles gi ya Guahan. Esta hu sangan na ti sina esta ta na'suha. Nisisario para i kinalamten ikonomihan Guahan yan impottante yanggen para ta fanakomprende yan tod u i taotao hiyong. Yanggen para ta fanmama'tinas disision ni' para i magahet na minaolek-ta, debi di ta na'achaparehu i estaon tod u i dos lengguahi. Lao, yanggen para ta fanma onra komo hita magahet i mismo taotao i tano', yanggen para to na'sen annok na guaha mismo taotao-na este na isla, ya yanggen para u sina ma distingi i ManChamorro yan i ManGuamanian, pues debi di u ta na'klaru i tagahlo na saga-na i fino'Chamorro.

Hafa taimanu i famagu'on-ta ManChamorro ma hongge na gai impottante i lengguahen yan kutturan i manainan-niha yanggen ayu ha' na ma li'li'e yan ma huhungok i lengguahi yanggen guaha ha' fina'sikretu pat guaha manma lalalatde pat yanggen guaha un gurupon manamko' gi uriyan-niha? Debi di ti dimanda na u ma usa i fino'Chamorro gi tod u gi ya Guahan, parehu gi gubetnamento, i familia, i kuminidat, yan i bisnes ni' iyon indibiduat pat gurupon taotao siha.

Ya-hu gumacha' yan lumi'i' i tiempo annai sina humalom yu' gi maskeseha amanu na tenda ya yanggen manggagao yu' ayudu gi fino'Chamorro ti nisisario na bai hu inestotba na sina ha' i ayudante ti u ha tungo' fumino'Chamorro. Mientras ha' ha estototba yu' este na hinalom, gaige i problema gi ya guahu. Ti debi este. Yanggen ilelek-na na ha sesetbe i gubetnamento yan i bisnes i taotao siha, pues debi lokkue' di u ma rekognisa i lengguahen i ManChamorro ya u tod u tiempo fanlisto para ta fanma setbe. Kumeke'ilek-na este na yanggen para u ma setbe hit, pues siempre u na'takhilo'-na i ginagao na yanggen para u fanmangonne' fafacho'cho' siha, debi di mas ki lamita guini u ma tungo' yan ma komprende manfino'Chamorro, enlugat di i fino'Chapanis.

Sasaonao guini lokkue' yanggen para u gef annok na guaha lengguahen-niha i ManChamorro i ma hatsayen tapblero siha gi fino'Engles yan fino'Chamorro. I plasan batkon aire ha' na mas annok gi enteruru i gubetnamenton Guahan na guaha dos gurupon taotao ma o'onra guini gi ya Guahan. Maskeseha manmafatto taotao ni' ti para u

fanagan-naihon guini, gigon ha' ma li'e i tapblero gi dos lengguahi manhalom ensigidas na hunggan, 'Guam is where America's day begins,' lao guaha ha' lakkue' otro na gurupon taotao fuera di i 'Guamanians' ni manggai lengguahi.

Hafa sina i eskuela u cho'gue para u ayuda i asunto na u ma na'i parehu pudet-na i hila'-ta taiguihi i fino'Engles? Meggai sumasangan na esta makkat na tareha i para u ma ayak yan ma tungo' i famagu'on-ta unu na lengguahi. Hunggan, makkat, lao ti imposipble. Makkat i ma ayak i fino'Engles para meggai gi ya hita sa' ti este primera lengguahi-ta. Maneyak hit manguentos, manmanaitai yan manmangge' gi mina'dos na lengguahi gi kinahulo'-ta. Ta tungo' ha' na ta na'sina sa' meggai hit chumo'gue, lao mas fasit siempre i ma ayak manaitai yan manmangge' gi fino'Chamorro sa' esta sina ta komprende yan ta sangan. I fino'Engles unu gi i mas makkat na lengguahi ma ayak, lao sina ha' ta cho'gue.

I eskuela mohon u na'huyong un areklamento ni' muna'klaru hafa taimanu sina para u ma atbansa i fino'Chamorro. Yanggen ti sina ma na'posipble fina'na'gue gi dos lengguahi todudiha, pues u na'siguru na i fina'na'guen fino'Chamorro kabales yan para todun na klasen estudiante siha. Debi di u sahngi i fina'na'gue para ayu siha esta manifino' Chamorro, yan sahngi lakkue para ayu siha i mannuebo para i lengguahi. Put mas, debi di u ma na'takhilo' gi este na kinalamten i kinemprende put i finalagon i lengguahi yan i ma usa-na gi todun na manera kontodu i ma taitai-na yan i ma tuge'-na. Gef na'magof yanggen ha tungo' i patgon-ta manaitai yan mangge' gi fino'Engles. Lao, ada ti mas na'magof yanggen ha achatungo' manaitai yan mangge' gi fino'Engles yan fino'Chamorro? Yanggen para ta konsigi i kinalamte-ta komu ManChamorro hit, mas inayudda yanggen lameggai gi taotao-ta sina manmangge' taiguihi.

Hita ni' mismo ManChamorro nai gaige i derecho para to disidi i kinalamte-ta guini gi tano'-ta. Sasaonao guini gi asuntun dinetetminan maisa put estaon pulitikat, i dinisidi put hafa malago'-ta para ta cho'gue' put i lengguahi-ta yan kultura-ta. Yanggen manmetgot hit gi minalago'-ta na para ta kontinuha muna'la'la', umabiba yan umatbansa i fino'haya, pues nihi ya ta fanachu hulo' ya ta sangan klaru hafa i minalago'-ta. Taya' otro gurupon taotao sina chumo'guiyi hit nu este. Taiguihi ha' put asuntun dinetetminan maisa, hita ha' sina fuma'tinas i disision-ta put lengguahi yan kultura.

Fanachu hulo' yan na'metgot i mas guaguan na guinaha-ta -- i lengguahi-ta, i guinahan i tano'-ta, i tano'-ta, yan i derecho-ta para ta ayak

yan na'magahet i manmaolek para i lina'la' i taotao-ta. Fanhuyong ya en fanmambota gi diha ocho di Agosto.

A NOT SO PERFECT UNION: FEDERAL - TERRITORIAL RELATIONS BETWEEN THE UNITED STATES AND GUAM

Laura Souder-Jaffery

This paper brings together some well isolated layers of reality which underlie the relationship between the U.S. Territory of Guam and the Federal Government. Before the political status question is resolved, it is imperative that the motivations and intentions which have shaped American territorial policy are critically examined. The author traces the political relationship between Guam and the United States from its beginnings in view of the American promise of self-determination for the people of Guam. The unilateral exploitation of a vulnerable Pacific Island by the world's most powerful nation is called into question. (The Editors)

INTRODUCTION

Things are not what they seem Social reality turns out to have many layers of meaning. The discovery of each layer changes the perception of the whole.¹

Guam is at the threshold of a new era in its political development. As an entity in the Pacific, it is caught in the tide of massive political rearrangements occurring in Micronesia as well as among island neighbors to the south. The humorous Guam saying, "when the world sneezes, we catch pneumonia," appropriately describes the magnified impetus that the move toward self-determination has taken on Guam.

The Eighties is a decade of change. It is important that we ask some critical questions before decisions are finalized regarding the relationship between Guam and the United States. What is American territorial policy? Who defines it? Why is it the way it is? Whose interests

are best served by it? Is it working? For whose benefit? Should it change?

Perhaps a little digging to expose some of the roots of the problem may not provide quick and easy solutions to either the Federal Government or Guam. But, it is my strong contention, that unless we begin asking questions, which heretofore have been largely ignored, Guam will continue to be the disadvantaged player in a political football game controlled and operated in ways that defy the code of fair play.

I. HONORABLE INTENTIONS QUESTIONED?

In recent years, there has developed among the people of Guam a feeling of discontent regarding the island's political status. The current attitude of nearly all the residents of Guam is that our political relationship with the U.S. Government is not acceptable. Our relationship does not give Guam the economic tools for survival not the political mechanisms for dignity. While the island's residents may (and do) differ widely on what constitutes a better arrangement, we are nearly unanimous in our belief in the right to self-determination. Moreover, we recognize, as must the Federal Government, that this right has not been openly and freely exercised or even acknowledged.²

That change in the political status of Guam is necessary, is a pervasive stance among Guam's leadership, local business leaders, political analysts, media, and perhaps most significantly the people of Guam themselves. Echoes of the dissatisfaction being expressed have reached the White House. In September, 1979 the U.S. Interagency Policy Task Force circulated copies of a wholly internal **Interagency Policy Review of U.S. Territories and the Trust Territory**. This document recognized that something was amiss.

In Guam, on the other hand, within recent months there has been displayed for the first time noticeable sentiment in support of either *Statehood* or independence. Some of the people of Guam believe that the United States should afford Guam substantial

Federal financial support; and some agree that Federal statutes have created barriers to Guam's economic development. Many also express concern about what appears to them to be the arbitrary and insensitive application of Federal laws and regulations.³

The report itself did not include the expressed interests of the Territories involved. Consequently, heated debate regarding its validity followed its release. The Fifteenth Guam Legislature in a **Statement of Political Status** rejected the review of the U.S. Interagency Policy Task Force as nothing more than "the rose colored viewpoint of a colonial power attempting to appease the restless natives."⁴ This rather strong objection was justified on the following statement of principle.

We believe strongly, both from a legal basis as well as a moral point of view, that the people of Guam have an inherent and inalienable right to self-determination. Our basic premise is that we are currently equals only in the sense of being U.S. citizens; but unequal in terms of being able to shape our own destiny. Our dignity must be maintained and the maintenance of it will not be accomplished by an offering of options.⁵

Reactions, such as this, by territorial officials have brought harbored resentment of federal policy to the surface. President Carter during his term of office responded with a new Federal-Territorial Policy.⁶

In order to understand 'the policy' as it is expressed today, we should examine the relationship between the U.S. and Guam from its beginnings.

Executive Mansion
Washington D.C.
December 23, 1898

The Island of Guam in the Ladrões is hereby placed under the control of the Department of the Navy. The Secretary of the Navy will take such steps as may be

necessary to establish the authority of the United States and to give it the necessary protection and Government.

William McKinley⁷

The year 1898 was a turning point in the political evolution and status of Guam and its inhabitants. The executive order cited above transferred control of the captured Spanish territory to the United States Navy. On August 10, 1899 the first appointed American Naval Governor of Guam, Captain Richard Leary, arrived and officially proclaimed the establishment of the Naval Government of Guam.⁸

The Naval Governors had no experience in the administration of civilians, much less civilians from a completely different cultural and linguistic background. The office of Governor was a sort of bonus to the Commander of the Guam Naval Station, who was nominated by the Secretary of the Navy and appointed by the President with the Senate's consent. Most Governors accepted the appointment grudgingly, because they realized that the position of Governor was not a step toward an admiralty. This is one of the reasons why so many administrations were not characterized by an abundance of enlightened policies.⁹

Possessing no experience in administration except for commands of ships or bases, most Governors tended to command the island as if it were the Carrier U.S.S. Guam, with enlisted men and twenty thousand civilian crew members.¹⁰ In setting up their administration, the Naval Governors tried to transfer, practically intact, an alien administration structure, developed centuries before, for the absolute control of military personnel, to the small Pacific Island inhabited by potentially peaceful law-abiding indigenes. In doing so they ignored all local institutions and customs considered to be incompatible with Navy regulations.¹¹ They suppressed:

Catholic processions, the native language, popular municipal elections, citizenships, drinking, gambling, cockfighting, whistling in the streets, trains on women's dresses, serenading, and staying out after 10:00 p.m.¹²

The Naval Government not only completely disregarded the fact that these practices were part of the Chamorro way of life, but they neither allowed nor provided the islanders with the opportunity to develop any adequate substitutes. The Governors failed to realize that the Navy's institutions, mores, and thoughts were cast in a military mold and directed primarily at Naval interests. They could not understand how their efforts at improvement constantly interfered with, rather than fostered, local community life, and tended to stifle rather than stimulate and encourage native leadership.

This military mentality has persisted, as the framework for governing the Territory of Guam, in varying degrees to the present day. The most common image that Americans have of Guam is as a giant military base.

It is timely at this point to digress a bit and review the circumstances and motivations surrounding the acquisition of insular possessions by the United States at the close of the nineteenth century.

The 'lust' for expansion expressed in the middle of the nineteenth century saw fulfillment in the acquisition of Texas, the Mexican Territory, and Oregon Territory. By the end of the 1800s expansionists had exhausted the continent. There was nowhere to go but overseas. China and the attraction of expanded commercial markets played heavily in the politics of the time. 'Manifest Destiny' and 'Mission' quickened the heartbeat of many Americans. Scholars like John W. Burgess of Columbia University wrote of Teutonic excellence in his **Political Science and Comparative Constitutional Law** published in 1890. This pre-eminence gave the German and Anglo-Saxon nations the right "in the economy of the world to assume the leadership in the establishment and administration of states."¹³ He developed this position further by asserting that,

If barbaric peoples resisted the civilizing efforts of the political nations, the latter might rightly reduce them to subjection or clear their Territory of their presence. If the population were not barbaric but merely incompetent politically, then too the Teutonic nations might righteously assume sovereignty over, and undertake to create state order, for such a politically incompetent population.¹⁴

A contemporary of Burgess, Alfred Thayer Mahan, the historian, saw American domination of the world market as a likely consequence of sea power. "Sea power was essential to national Greatness. Sea power embraced commerce, merchant marine, navy, naval bases whence commerce might be protected, and colonies where it might find its farther terminals."¹⁵ Julius W. Pratt in his assessment of American expansion overseas noted, "it was such ideas as these ... of Burgess and Mahan which created a public opinion receptive to expansion overseas in 1896."¹⁶

Some American historians have viewed the imperialistic actions of the United States in the 1890s as an aberration of the American way. Frederick Merk, for example, called imperialism an antithesis of 'Manifest Destiny', and Richard Hofstadter described this period as "the psychic crisis of the 1890s." William Appleton Williams took a different approach. He placed the overwhelming emphasis for explaining events in the 1890's in an economic determinism argument. In a chapter of his book *The Contours of American History* entitled, *Economic Motives were the Decisive Factors*, he states, "clearly the most significant of the factors was the consensus among business leaders on the absolute necessity of overseas expansion."¹⁷

Following the interpretation set forth by Williams, his student, Thomas J. McCormick, another historian, discounted some of the alternative explanations for American Imperialism. He re-emphasized the commercial and political-military reasons underlying American actions.

America's insular acquisitions of 1898 were not primarily products of "large policy" imperialism. Hawaii, Wake, Guam, and the Philippines were not taken principally for their own economic worth, or for their fulfillment of the Manifest Destiny Credo, or for their venting of the "psychic crisis." They were obtained, instead, largely in an eclectic effort to construct a system of coaling, cable, and naval stations into an integrated trade route which could facilitate realization of America's one overriding ambition in the Pacific -- the penetration and, ultimately, the domination of the fabled China Market.¹⁸

The interpretations by Williams and McCormick are, in my estimation,

a more accurate depiction of the rationale for acquiring the Pacific territories. With this in mind, the ensuing iron hand administration of naval officers over the Territory of Guam prior to 1950 can be seen for what it was intended to be from the start; not an interim measure to the eventual self-government of a people, but the unilateral exploitation of a vulnerable Pacific island by the world's most powerful nation.

It is critical to recognize that this hierarchical, military rule, i.e. from the top downwards, defined the federal-territorial relationship at the onset. This structural framework for dealing with political, economic, and social issues has persisted to date. The built-in domination of powerful America over vulnerable Guam, or this vertical-type relationship has perpetuated the following conditions:

- a) an imbalance of power favoring U.S. federal interests often to the extreme disadvantage of the people of Guam;
- b) a narrow vision of possibilities related to the development of the territory -- options and alternatives outside of the accepted range are not recognized as legitimate considerations;
- c) a relationship which was established, defined, and manipulated by one "interest" over another. There has never been consideration of mutual interest or partnership especially throughout the Naval Administration Period; and
- d) a growing dependency on resources which are controlled and distributed by the Federal Government, for example cash wages, rations, food stamps, welfare benefits, grants and loans, etc.

Clearly, the rationale for having acquired the insular territories, the subsequent type of government used to administer federal interests in the territories, and the unilateral decision-making prerogatives of the Naval Governors of Guam, provide a lens for examining the way in which the Federal Government vis-a-vis Congress and the Department of Navy responded to political issues raised by the people of Guam as early as 1902.

There was no articulated policy guiding administrators. The government, rather than committing itself to specific objectives, only responded to native demands as they arose. The tradition of "problem-oriented" decision-making and policies began at this initial stage in the relationship. Most often local demands were ignored. The first federal document registering the dissatisfaction of the people of Guam regarding political status was released in 1979. This does not

mean that the relationship was peacefully accepted up to that time, quite the contrary.

The Senate placed itself on record by passing the following resolution:

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled that by the ratification of the treaty of peace with Spain it is not intended to incorporate the inhabitants of the Philippine Islands into citizenship of the United States, nor is it intended to permanently annex said islands as an integral part of the territory of the United States; but it is the intention of the United States to establish on said islands a government suitable to the wants and conditions of the inhabitants of said islands as will best promote the interests of the citizens of the United States and the inhabitants of said islands.¹⁹

In 1917 the Guam Congress appealed to the Governor to request that the U.S. Congress and the President define the civil and political rights of the people. Nothing was done. Early in the 1930s the people of Guam submitted a petition with 1,965 signatures to President Roosevelt seeking political recognition. No response. Again the Guam Congress unanimously requested U.S. Citizenship in 1936. A delegation to Washington D.C. in support of a citizenship bill met with minor success when they saw the introduction of a bill conferring citizenship to Guamanians in 1937. The Bill was defeated; success short lived. The Navy Department, in opposing the bill, claimed that "due to the international situation, it is inadvisable to pass Senate Bill 1450 at this time."²⁰ At the suggestion of the Navy Department, the State Department changed its former position and decided that "Guam was not ready to assume a new status."

"Lip service" was the extent to which the Federal Government was willing to address the concerns of the people of Guam in the pre-war period. Guam was occupied by Japanese forces for three years during World War II. After the United States regained control of the island in 1944, local residents attempted once more to push for self-government.

One of the first acts of the post-war Guam Congress was to petition the United States Congress to fulfill its obligation to the 1898 Treaty by determining the rights and political status of Guamanians. After this initial petition, the Guam Congress and island residents decided not to continue to press the issue pending receipt of the recommendations that President Truman requested of the Secretaries of War, Navy, and Interior, concerning the administration of Guam and the other U.S. Pacific dependencies.²¹

Meanwhile, frustration and discontent were being nurtured by the noticeable lack of power Chamorros had in their own government. Fifty years had elapsed since the change of governments and the people of Guam had not more than advisory status in the way they were governed.

Finally in a report dated June 18, 1947, the Secretaries recommended the following course of action:

1. Separate Organic Legislation for Guam to provide civil government and grant citizenship, a bill of rights, and legislative powers to Guamanians should be enacted forthwith.
2. The Navy Department should continue to have administrative responsibility for Guam and American Samoa on an interim basis pending the transfer of a civilian agency of the Government at the earliest practicable date.²²

Subsequent to this report, several bills were introduced in Congress; none got reported out of Committee, however.

The people of Guam had waited over half-a-century for the day when they could govern themselves and also become American citizens. Growing discontent could be felt in the foundations of the island government until on March 6, 1949, it erupted. On that day, the urgent need to enact the Secretaries' recommendations was made apparent. The entire House of Assembly "walked out in protest of the Naval Governor's refusal to organize the investigative authority of the Guam Congress. All thirty-four assemblymen were ousted from their elective offices by the Naval Governor."²³

The issue at stake was the Governor's refusal to deport some Americans whom the Guam Congress' Investigative Committee suspected of exerting pressures on the Naval Government to take advantage of Guam's growing import-export market. Later, after some deals were made and understandings arrived at, the Governor revoked his order expelling the Assemblymen, and they were allowed to return to their offices.²⁴

The situation required immediate attention. To pacify the island until the U.S. Congress could pass an Organic Act, President Truman issued Executive Order No. 10077. It stated in part that :

1. The Administration of the Island of Guam is hereby transferred from the Secretary of the Navy to the Secretary of the Interior, such transfer to become effective on July 1, 1950.
2. The Department of the Navy and the Department of the Interior, shall proceed with plans for the transfer of the administration of the island of Guam as explained in the above mentioned memorandum between the two departments.
3. When the transfer of administration made by this order becomes effective, the Secretary of the Interior shall take such action as may be necessary and appropriate, and in harmony with applicable law, for the administration of civil government on the Island of Guam.
4. The executive departments and agencies of the Government are authorized and directed to cooperate with the Departments of the Navy and Interior in the effectuation of the provisions of this order.
5. The said Executive Order No. 108-A on December 23, 1898, is revoked, effective July 1, 1950.

Harry S. Truman²⁵

The Organic Act of Guam passed the House and Senate in 1950

and was signed by President Truman on August 1st. Thus ended half a century of military rule.

There is no doubt that Guam's political status improved with the passage of the Organic Act, but the cold facts remained. There was still no provision for electing the Chief Executive, not did it provide for representation in Washington.

Guam persisted. The Federal Government pretended to listen. It was not until 18 years later that Congress approved an Elective Governorship Bill for Guam. The first elected Governor of Guam took office in 1971. Despite unanimous objection of Guam officials, however, a federally-appointed Comptroller with broad judicial and executive powers came along as part of the package. In January of 1972 the U.S. Congress authorized Guam to elect a non-voting delegate to the House of Representatives. He remains a representative without a floor vote.

Although certain roles had been shuffled and new faces in civilian garb replaced the uniformed administrators of pre-war days, the basic vertical, unilateral relationship between the U.S. and Guam did not change with the institution of civilian government. The piecemeal approach to territorial concerns did not end either.

Guam's leaders continued to push for self-determination, garnering wide support with the passage of time. In 1973, the Twelfth Guam Legislature enacted P.L. 12-17 creating the Guam Political Status Commission. The Commission was charged with the responsibility of responding to the need of the people of Guam for information and direction in relation to their legal and political status with the United States. The Report that was issued in April 1974 was primarily informational.

The Thirteenth Guam Legislature followed suit and created a Guam Political Status Commission in 1975. The main role of this body was to educate the public on options and to open up negotiations with the Federal Government. President Gerald Ford appointed the Director of the Office of Territories to represent the Administration. One of the offshoots of the Commission's work was a plebiscite on political status held in September 1976. Eighty-eight percent of the eligible Guam voters cast their votes as follows:

Status Quo	8%
Improve Status Quo	51%
Independence	5%
Statehood	21%
Other	3% ²⁶

This was the first systematic expression by the people which indicated a desire for change. Only 8% were satisfied with the relationship as it existed.

In response to this public mandate, the U.S. Congress passed an Enabling Act [PL 94-584] in October 1976 which provided for the establishment of constitutions for the Virgin Islands and Guam.

Contraversion over the new draft constitution began with the federal Enabling Act. Many saw the Act as restrictive and claimed that the end product, drafted within federally-defined parameters, would amount to nothing more than a revision of the Organic Act. The federal Enabling Act was criticized by many citizens as prohibiting the people of Guam from exercising their inherent right to freely choose their political destiny.

The Thirteenth Guam Legislature passed PL 13-202 calling for a Constitutional Convention. Legislators felt that the people could decide in a referendum whether or not to ratify the Constitution. The first federally sanctioned Guam Constitutional Convention met in 1977 and 1978 and drafted a Constitution for Guam.

Various groups on the island opposed the Constitution for different reasons. A local coalition, PARA-PADA represented a faction which opposed not the document but the Congressional Enabling Act. Other interest groups were critical of provisions included in the Constitution. A massive education program was authorized by the Fifteenth Guam Legislature, whose members were among the most outspoken officials against the Constitution because of the political status question. In August of 1979, the people of Guam once again decided the issue in a referendum vote. The Constitution was defeated by a five to one margin.

The whole controversy surrounding the Constitution and opposition to it seemed to crystalize the general satisfaction by various

factions on Guam with the island's political status as an unincorporated territory. **The Interagency Policy Review of U.S. Territories and the Trust Territory**, mentioned earlier, was the federal response to actions taken by the electorates of both Guam and the Virgin Islands (who also defeated their Constitution).

Another controversy between local officials and the Federal Government arose over a move by the White House to introduce legislation in Congress that would authorize the Internal Revenue Service to take over income tax collections in U.S. territories.²⁷ Territorial leaders voiced strong opposition and have consequently succeeded in getting the movement delayed.

An American economist writing on this issue called it "one of the most pernicious forms of imperialism." He argues further that,

Taxation without representation is practiced in Guam in its extreme form. The Guamanians are not permitted to vote even in federal elections, in spite of the fact, given their size, they've experienced the highest number of fatalities serving America during World War II, the Korean War and the Vietnam War. Whenever the Guamanians make their wish known that they, too, would like a say in their island's affairs, they are branded disloyal or ungrateful.²⁸

Criticism of the Federal Government's treatment and policy towards the territories has been on the uprise. Editorials in the Pacific Daily News, Guam's only daily newspaper, periodically feature commentaries on federal action affecting the territories. For example, an editorial on economic problems experienced on Guam blamed the Federal Government for placing unreasonable restrictions and legislation on the island. "The U.S. Government, while pretending to support more self-sufficiency, has managed to strangle our attempts to move ahead by constraints." ²⁹

Politicians, educators, and the media continually raise issues which reflect the mounting concern about the "not so perfect unilateral union" or problem-ridden relationship between Guam and the United States. In view of these struggles for recognition, political autonomy, and representation, we should ask -- is Guam in a better position politically?

As an unincorporated territory of the United States, Guam is not fully protected by the U.S. Constitution. In a Supreme Court Ruling, Justice White defined the distinction between incorporated and unincorporated territories. "Territorial incorporation determined the Constitutional status of the territories and the restrictions imposed upon Congress' authority to govern them."³⁰ Congress has tremendous power over unincorporated territories. Their scope of power was further clarified by a more recent court decision. In *Sakamoto et. al. versus Duty Free Shoppers Ltd., et. al.*, Judge Schroeder stated that "the Government of Guam is in essence an instrumentality of the Federal Government."³¹

The Organic Act, the basic document setting forth the relationship between the Federal Government and the Government of Guam, stems from Congressional action. It does not take its powers from the people of Guam. The extent of the power granted, therefore, depends entirely upon the Organic Act enacted by Congress in each case, and is at all times subject to such alternatives as Congress may see fit to adopt. The concept of "organic act," furthermore, has a specific connotation in American law, such that the relationship between a territory governed thus and the Executive Branch and Congress generally play toward an unincorporated territory's disadvantage.

A territory governed by an Organic Act is assumed to need assistance and thus the legal precedents not only permit but encourage greater Federal Government control over it. The result is that the normal statutory and judicial prejudices in favor of local governmental autonomy do not apply to Guam. Thus, the Government of Guam has no more power than is specifically granted in the Organic Act. Those powers that are not granted are retained by the Federal Government. The point then, is that the Government of Guam must act only within a narrowly defined sphere of authority.

In this light, the idea of political self-determination is tenuous at best. It is true that the Organic Act did considerably alter the political relationship between Guam and the United States. Tremendous strides toward self government have been made since 1950. Nevertheless, the power of Congress over the territory is still a formidable obstacle to self-determination and political autonomy. These powers were enumerated in a legislative report on political status as follows:

Even after Congress sets up the territorial government to handle its own affairs, Congress still retains reserved power over acts of the territorial government. It may make a void act of the territorial legislature valid, and a valid act void ... Congress may even ratify or approve acts or parts of acts enacted by the territorial legislature beyond the territory's authority.³²

The effect of this continuation of federal authority and federal bureaucratic presence is to limit Guam and its local governmental institutions and prevent them from developing normally and expanding to their fullest. Two attempts to replace the Organic Act with a Guam Constitution have been unsuccessful.

The Guam Commonwealth Act drafted by the Commission on Self-Determination is the third and most recent attempt. The fate of that effort is as yet unknown. The fact remains that the relationship between Guam and the United States has been fraught with ambiguity and inconsistency. On the one hand the Federal Government has professed its dedication to the goal of local self government for the territories as exemplified by the Treaty of Paris. The United Nations Charter Agreement signed by the U.S. unequivocally declared the right of colonial people to seek self-determination. Actions speak louder than words, and the efforts toward self-determination, as we have seen in this brief review, have been almost exclusively initiated from the disadvantaged side. The unbalanced and constant vacillation of federal policy and action towards Guam has created instability and lack of direction and purpose at the local government level. Island leadership, heretofore, has viewed the question of political identity only in relationship with the United States. Sadly enough the Federal Government in its treatment of the territories has forgotten the revolutionary beginnings that brought America to its place in the world.

An extremely provocative analysis of why America has failed to live up to its commitment to the goal of self-determination is provided by William Appleman Williams in his book, **America Confronts a Revolutionary World: 1776-1976**. He identifies the major problem as a situation which has been progressing downhill since the American Revolution in 1776. The basic irony is that while American leaders have claimed belief in self-determination, they have all been hellbent on

preserving the "American Present." This propensity has narrowed the range of political and economic choices to only a select few that "promise" to keep the vision of the American Present going. It has also operationalized a definition of self-determination which Williams describes as being conservative and ultimately counterrevolutionary. The key concept to be understood when analyzing political-economic changes, is the rate of *structural* change, says Williams, "A rearrangement of the parts of the whole."³³ This is a useful tool for looking at the underlying meaning of the changes that have taken place in the political sphere on Guam since 1898. As they have not been structural changes, the same pattern of dominance and self-interested policy making has persisted despite major attempts to dramatize incremental policy initiatives as "milestones" and "significant thresholds" in Guam's political relationship with the United States.

II. WORD VS. DEED

The most explicit federal-territorial policy statement to date was proclaimed by President Carter in February 1980. The language, focus and range of possibilities as well as the process through which the policy statement was developed and evaluated give some clear indications that, the "American Present" continues to be preserved by trimming branches rather than by digging up roots and replanting in more fertile ground.

Williams defines two alternatives:

Either we believe in the right of self-determination as the basis for creating communities composed of people who come to agree among themselves about the "arrangement of all the parts," or we define the right of self-determination as the basis for some people to project or impose their "arrangement of all the parts" upon everyone else.³⁴

At least in the case of territorial policy related to Guam, the evidence weighs heavily in favor of the second definition.

In the *Interagency Policy Review of U.S. Territories and the Trust Territory*, the existing policy was reiterated.

The history of Federal-territorial relationships for many decades illustrates that encouraging political, economic, and social development has been a clear and long standing Federal goal, and as a point of beginning, it ought to be reaffirmed as the United States' fundamental policy toward the territories and the Trust Territory today. The implementation of that policy must, of course, be consistent with our legal responsibilities, territorial aspirations, U.S. National Security objectives, and our commitment to self-determination.³⁵

The historic illustration of this policy has been called to question earlier in this paper. Nevertheless, it may be fruitful to look at the interpretations of success and failure as explicated in the *Interagency Policy Review of U.S. Territories and the Trust Territory*. Regarding the commitment to self-determination, the document states that,

The record of the United States in encouraging the political development of its offshore areas has been marked by *a willingness to permit* the people of the affected areas to determine their own preferred political status. There has been displayed -- a federal willingness to accomodate a variety of political arrangements, as directed by the aspirations of the people of the affected area.³⁶ (emphasis added)

This language is characteristic of the ambiguous and vague terms that have been used to obscure realities. *Willingness to permit* means "give permission to," which implies a certain type of relationship where one assumes power and control over the other. It certainly does not mean "recognition of the right," and yet the smooth talk about dedication to and commitment to self-determination somehow conveys an impression of recognizing rights. The use of nebulous phrases such as, "usually not swiftly" and "but always eventually," slipped in between lines as after-thoughts, are classic under-statements revealing a deeper level of reality.

The following analogy provides a simple but frequently ignored perspective regarding this complex reality. What does it mean when you tell a bird you will help it to fly while cutting off its wings? It simply means the bird won't fly. The bird is faulted for its inability to fly. The point to be made is that we must explore the reasons why the bird won't fly, in other words why hasn't Guam been successful in its bid for self-determination thus far. The roots of the problem must be examined.

The **Interagency Policy Review of U.S. Territories and the Trust Territory**, in its evaluation of territorial progress to date, did not ask why. In a discussion of the encouragement of self government the following contradictory statements are found: "Local self government is now close to complete... . In certain particulars, however, local self government in the territories remains incomplete." ³⁷

The paragraph following this statement points out that although Congress passed an Enabling Act *allowing* the territories to write their own constitution, the electorate of Guam and the Virgin Islands rejected the Constitutions, thus leaving their Organic Acts in effect. Need it be mentioned that the Enabling Act set parameters and established U.S. sovereignty as a requirement of the Constitutions. It was mainly for this reason that the Guam Constitution was defeated.

Moving to the second area of U.S. commitment to the territories, that of economic development, it is clear that the 'why' questions are ignored once again. American administrators are certain about the reasons for the shortcomings encountered in the economic progress of territories.

The United States' achievements in encouraging political development have not been matched in the area of economic development. Some of the reasons are obvious: scarce resources, untrained labor forces, geography . ³⁸ (emphasis added)

The reference to the United States' achievements clearly implies that the *U.S.* and *not* the *territories* is the principal actor in this play.

Scarce resources, untrained labor forces, and geography are

surely important factors but what about the over 400 federal statutes governing and controlling the many facets of Guam's economy which have hindered the many potential economic activities geared toward the island's growth? Among these are:

1. Jones Act restrictions, prohibiting the use of foreign built boats operating from Guam;
2. Defense Base Act, Davis-Bacon Act, Adverse-Affect Wage Rates, and Fair Labor Standards Act which have created destructive and disruptive market conditions on Guam;
3. Customs regulations and immigration quotas;
4. USDA regulations preventing Guam from supplying itself from nearby Asian agricultural markets.³⁹

The economies of the U.S. Territories have changed from subsistence level economic systems to money-based economies overnight. An extremely influential catalyst has been the pumping in of federal assistance. The damage is done. Guam has subsequently "developed" into an over-aged and troublesome dependent of Uncle Sam.

Concern for Guam's people in so much as they possess inalienable rights has always been tempered by the much more urgent priorities of American security objectives. The overriding message of the **Interagency Policy Review of U.S. Territories and the Trust Territory** is that the U.S. has done what it could. It stands ready to meet the changing demands of the territories. Yet, the Federal Government has failed to include the territories in evaluating the Federal-Territorial relationship; no participation was sought before the U.S. Interagency Policy Review Task Force submitted their report to the President. Success of programs was measured not by what effect such programs have had on the population but by how many dollars were given. Doesn't it matter that along with streetlights and paved roads have come power bills that are among the highest in the U.S., about \$3,000 a year per family with a projected increase of up to \$16,800 per home by 1990.⁴⁰

President Carter in outlining the then *new* (?) Policy stated,

In keeping with our fundamental policy of

self-determination, all options for political development should be opened to the people of the insular territories so long as their choices are implemented when economically feasible and in a manner that does not compromise the national security of the United States.⁴¹

Who will determine economic feasibility? What about the security interests of Guam? For all intents and purposes, the "new" policy serves the existing relationship by keeping arbitrary and unilateral decision-making prerogatives in the hands of the U.S. Federal Government. The role of the Secretary of the Interior under this policy forces the expression of political aspirations into administrative channels. Is this what the people of Guam want?

III. WHERE DO WE GO FROM HERE?

The Island of Guam is one of the world's oldest colonial dependencies. For a period of over three hundred years, Guam has been the possession of outside powers who valued the Island only for its strategic geographic location In the contemporary world, colonial government is an anachronism that can no longer be tolerated by an informed and proud citizenry The people of Guam now seek a substantive increase in local political power, not just a change in form.⁴²

The Territory of Guam can proceed to explore limited options enumerated by the Federal Government in the hopes of one day achieving self-determination. This is the route the U.S. has chosen to take. So long as federal authority has the arbitrary power of identifying the options, determining what is feasible, and calling the shots; and, so long as the U.S. Congress holds the trump card there can be no denying that Guam stands to lose by this arrangement.

Is there a way out of this oppressive relationship? Only when Williams' first definition of self-determination is employed, can real negotiations commence. Negotiation implies that the parties involved are on equal footing, that they possess bargaining powers. In other

words the relationship would need to be horizontal rather than vertical, bilateral rather than unilateral. Citizens of a nation cannot negotiate with their own government. Recognizing this, it would be ideal if Guam could declare itself independent for at least one minute in order to negotiate with the United States on equal footing.

Can a redefinition of the existing Federal-Territorial relationship occur, which would predispose Guam and the United States to realistically examine "interests" and the implications and consequences of decisions made in their true light? The people of Guam must set their priorities and if necessary confront the U.S. with a revolutionary spirit in the Eighties and beyond.

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HUMAN RIGHTS: "THE DREAM" VS. REALITY

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Self-determination is unquestionably a human rights issue. Nations have fought to keep this right intact. This essay highlights the American record of violations of the human right of self-determination of the indigenous peoples of Pacific Territories. The sincerity of American human rights statements is measured against the Federal Government's actions in the Pacific. (The Editors)

Human Rights is more than an ideological or political concept. The concept of human rights is a concept of world order. It is a proposal for structuring the world so that every individual's human value is realized, every individual's human dignity is protected.

Human Rights is law. When a nation violates the human rights of a person or a people, it is violating international law. The purpose of laws is to create a meaningful, rational, and just framework in which the pursuit of personal and societal enjoyment can take place. This purpose has never been better expressed than in the Preamble to the **Universal Declaration of Human Rights**. The drafters of the Declaration clearly understood the important role that law must play if the goal of respect for universal human rights is ever to be realized when they wrote:

... it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, then human rights should be protected by the rule of law.

Human Rights and human rights violations are discussed in the context of apartheid in South Africa, tyrannical dictatorships in Chile, El Salvador, Korea, Nicaragua, Haiti, and the Marcos regime in the Philippines, or communist invasions into Afghanistan.

Most Americans self-righteously proclaim that the United States

created human rights and is its chief champion and advocate throughout the world. Few Americans are willing to admit that we as a People or as a Nation have ever violated any individual's or any group's human rights.

Few Americans are willing to admit that discriminatory practices based on race, creed, color, sex, and sexual preference exist in these United States.

Few Americans are willing to admit that the Federal Government has committed human rights violations against the people of the Pacific Islands.

Few Americans are willing to challenge the national government to be true to our heritage and commitment to recognize and preserve human rights at home and abroad.

Most Americans would challenge my thesis by asking, *What human rights have we ignored or violated?*

Human Rights violations are not just apartheid policies or government sanctioned killings, or martial law. The human rights of a people are violated when their lands are taken without due process of law. Their human rights are further violated when the land is taken without just compensation. This human rights violation is compounded when, after admitting the violation, we refuse to make a good faith effort to rectify the violation.

One of the basic human rights is the right to self-determination. The human rights of the Chamorro people of Guam have been violated by the Federal Government's refusal to recognize this right of the indigenous people.

The human right of self-determination of all Guamanians, be they indigenous or not, has been violated continuously over the last 89 years by the U.S. Government's refusal to make a good faith effort to recognize and assist in the realization of this right by negotiation or legislation. The Executive Branch refuses to negotiate and the Congress has indicated its unwillingness to exercise its constitutional duties and treaty obligations to provide for a plebiscite.

The human right of self-determination of the People of the Northern Marianas has been denied or violated over the last nine years. Though

the Covenants and Compact of Commonwealth were completed in 1977, the Federal Government refused to send them to the Congress and the United Nations under the guise that the termination of the Trust Territory Agreement was an all or nothing proposition and unless all the Compacts were ready, none would be acted on. The fallacy of this argument was exposed when the Covenants were sent to Congress even though the Compact of Free Association of the Republic of Belau was not included.

The human right of self-determination of the People of the Federated States of Micronesia and the Marshall Islands were violated in a similar fashion since the completion of their Compacts.

The human right of self-determination of the People of Belau has been compromised if not violated by the pressure put on them by the U.S. Government's decision to hold the aforesaid Compacts/Covenants pending completion of the Compact of Free Association of Belau. The human rights of self-determination and sovereignty of the People of Belau are being violated by the U.S. Government's refusal to recognize and accept the desire of the People of Belau to have a nuclear free environment as expositied in their Constitution. The U.S. Government's insistence on the nuclear transit provision in the Compact has been rejected by the voters of Belau in five plebiscites and the issue is now being addressed in a proposed amendment to the Belau Constitution deleting the nuclear provision. We Americans have a procedure to amend our Constitution and its provisions, and we should honor and respect the decision of the People of Belau and not extort the decision we want by withholding support and forcing plebiscites to be held every six months.

Chief Justice Momoro Nakamura, Justice Loren A. Sutton and Chief Justice Edward C. King should be commended for their well-reasoned decision in *Yutaka Gibbons et. al. v. Lazarus Salii et.al.* [Supreme Court of the Republic of Palau Appeal No. 8-86], where they upheld the Constitution and the will of the people to protect their environment and their land.

The human right of the People of Belau to use of their lands will be jeopardized if not violated by the continued insistence of the United States to have leasehold rights to a large tract in Belau for military use by the U.S. as well as other nations, this being in violation of the Constitution of Belau which prohibits eminent domain for foreign

persons. This issue was also addressed in the landmark Gibbon's decision.

The human rights of all Pacific Islanders to the natural resources of the land and the sea were violated by the United States' refusal to recognize the claims of the Pacific Island states and nations to their 200 mile exclusive economic zone and the rights to regulate tuna fishing in these zones. U.S. fishing fleets have trolled the area and reaped the bounty of our seas. Little, if no, remuneration was received by the people. To compound the problem, the advanced technology of these U.S. fleets depleted the schools making it more difficult for our local fishermen to feed their families or establish an industry.

The human rights of the People of the Federated States was violated with impunity and with the alleged condonation by the U.S. State Department. In a November 11, 1986 article in the **Pacific Daily News** [p.5.] a U.S. attorney is reported to have advised his client that "According to the State Department, we can simply ignore the (FSM) complaint." This same attorney reportedly wrote the FSM Assistant Attorney General, Jack Wardum, that "We have reviewed the allegations of the complaint and discussed them with the Department of State ... (which has) informed us that the U.S. does not recognize the FSM's extended fishing zone for tuna. Therefore, the allegations in the subject complaint are not viable under U.S. law nor enforceable in our courts." [Pacific Daily New, November 11, 1986, p.5.] Chief Justice Edward King held otherwise and a default judgement against the tuna company was entered.

The human rights of some Pacific Islanders to the resources of the sea may finally be recognized and respected by the United States and its tuna industry if the U.S. signs the fishing treaty between the United States and six Pacific Nations. A November 13, 1986 **Pacific Daily News** news story reported:

The treaty will override a U.S. law which refuses to recognize the right of island nations to control tuna in their 200-mile limits. The United States up until now has only recognized island control over tuna within 12-mile limits. Island countries have complained that the policy prevents them from taking advantage of their major resource. The U.S. Tunaboat Association also approved the agreement, Fullerton said. The

United States is the only major fishing nation in the world that refused to submit its fishing boats for licensing within the 200-mile limits. The right to regulate tuna fishing was a point of controversy in the passage of the Micronesian Compacts of Free Association in the the U.S. Congress. Congress took away the negotiated right of the freely associated states to control tuna fishing. The Commonwealth of the Northern Mariana Islands is still negotiating with the United States in hopes of being treated as an independent nation in the area of control of its ocean areas. The second round consultations to be held in Honolulu later this month will address that issue. [p.3]

The human rights to the ocean resources of the Federated States, Marshall Islands, and CNMI is still in question. We, on Guam, have no control over this issue though there is no doubt that our human rights are also being denied us in this regard.

The human right most people would list as primary is the right to be secure in one's home. The human rights of the People of the Islands of Bikini and Enewitok were irreparably violated when they were used as targets and guinea pigs in the atomic bomb testing in the late 40s and 50s. Not only have they lost their homeland, but their posterity will have lost this human right for eternity. Some lost their lives and all others were deprived of their unimpaired health due to radiation exposure.

The human rights violations listed above are but a fraction of the human rights violations we as Americans have committed against Pacific Islanders. The litany of offenses could go on but these few should serve as a painful reminder that Americans are not without fault and that unless we, as a People, decide to correct these injustices, our condemnation of human rights violations by others will continue to be considered hypocritical.

As a Chamorro-American writer, I recommend that we as Americans and Pacific Islanders cause the United States Government to place **Human Rights** as the primary cornerstone of our foreign policy, in dealing with the world and especially in dealing with Pacific Islands.

This is not a revolutionary idea. On December 6, 1978 President Jimmy Carter made the following statement at a White House celebration

of the 30th Anniversary of the Universal Declaration of Human Rights:

I am very proud that our Nation stands for more than military and political might. It stands for ideals that have their reflection in the aspirations of the peasants in Latin America, workers in Eastern Europe, students in Africa, and farmers in Asia. We do live in a difficult, complicated world -- a world in which peace is literally a matter of survival. Our foreign policy must take this into account. Often, a choice that moves us toward one goal tends to move us further away from another. Seldom do circumstances permit me or you to take actions that are wholly satisfactory to everyone. But I want to stress again that human rights are not peripheral to the foreign policy of the United States. Our human rights policy is not a decoration. It is not something we have adopted to polish up our image abroad or to put a fresh coat of moral paint on the discredited policies of the past. Our pursuit of human rights is part of a broad effort to use our great power and our tremendous influence in the service of creating a better world -- a world in which human beings can live in peace, in freedom, and with their basic needs adequately met. Human rights is the soul of our foreign policy. And I say this with assurance, because human rights is the soul of our sense of nationhood. For the most part, other nations are held together by common racial or ethnic ancestry, or by a common creed or religion, or by ancient attachments to the land that go back for centuries in time. Some nations are held together by the forces, actual or implicit, of a tyrannical government. We are different from all of those, and I believe that we in our country are more fortunate. As a people we come from every country and every corner of the earth. We are of many religions and many creeds. We are of every background. We are right to be proud of these things and of the richness they lend to the texture of our national life. But, they are not the things that unite us as a single people. What unites us -- what makes us Americans -- is our common belief in peace and in a free society, and our common devotion to the liberties

enshrined in our Constitution. That belief and that devotion are the sources of our sense of national community. Uniquely, ours is a nation founded on an idea of human rights. From our own history, we know how powerful that idea can be.

All Pacific Islanders and, more specifically, we Chamorro-Americans implore the U.S. leadership to commemorate the 200th Anniversary of the U.S. Constitution by making 1987 the year that the U.S. Government recognizes our human rights.

Let 1987 be the year that the U.S. terminates the Trusteeship Agreement and fully implements the Compacts negotiated with these new Pacific Nations.

Let 1987 be the year that the U.S. Senate ratifies the Pacific Fisheries Treaty.

Let 1987 be the year the U.S. Government accepts the results of the June 1987 plebiscite as the definitive exercise of the People of Belau's most basic human right -- of self-determination.

Let 1987 be the year that the U.S. Government settles the land claims of the Chamorro people by just compensation or return of surplus lands.

Let 1987 be the year that the U.S. Government recognizes the basic human right of the Chamorro people to self-determination by Congress exercising its Article IV responsibility and treaty obligations in enacting legislation establishing a timetable for the plebiscite by the indigenous Chamorro people to determine their political status.

As the U.S. Government prepares for these discussions and negotiations, it should keep in mind the words of Secretary James H. Webb in his 1974 book entitled, *Micronesia and U.S. Pacific Strategy*, wherein he wrote:

The United States should understand that, in light of the strategic "funneling" effect that is likely to take place as the result of the Nixon Doctrine, our needs on Guam may well outweigh Guam's needs for us in the near future. If we lose Guam, our Western Pacific

presence is in danger of evaporating altogether. Accordingly, any negotiations concerning political status and defense land requirements should be approached on the basis of a true partnership.

... All gloomy predictions and possibilities aside, the fact remains that Guam is, and has been for 75 years, loyal to America. Her leaders will probably make reasonable requests in their coming negotiations with the United States. We, for our part, should remember that we no longer hold the trump cards, and should enter into negotiations with a spirit of partnership, as well as a clear idea of what our presence in Guam will be like 10 or 20 years from now. We should also remember that the problems we are encountering there are largely attitudinal, and that it is our attitude that may require an adjustment. To redefine our relationship in a written document with a friend that has demonstrated its loyalty over the years, and to spell out our precise military needs with an eye to returning any unneeded areas to the Guamanian people, may be a small price to pay for the retention of an American presence in the Pacific.

THE AMERICAN-PACIFIC CONNECTION

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Originally presented as a conference paper entitled: *American Connection to the Pacific* at the American Connection Conference held on May 15, 1987 at Adelup, this commentary focuses on some significant aspects characterizing federal interests in the insular Pacific. American security interests have long dictated political and economic development in the American Pacific. Any change in political status will have to address these interests. The author examines this reality from the perspective of an economist. (The Editors)

The American-Pacific connection qualifies as one of the most talked about but least understood geo-political arrangements in the world. Both praised and damned with equal vigor, the "connection" under scrutiny is far more controversial than it is understood, far more important than is generally realized either in Washington or in our island communities, and far more fragile than most policymakers will admit in spite of its durable appearance. What follows is a reflection of the basic anatomy of this connection.

It is important to state at the outset that I do not consider it anti-American to insist on an equal partnership between islanders and Americans, between island governments and the government of the United States. A clarification of this critical relationship will help in charting a new course for a better, more prosperous, more just tomorrow.

The foundation of the American-Pacific connection is U.S. national security interests. It is in the security interest of the United States to defend its own frontiers from positions situated well forward of its national boundaries. As a practical matter, America seeks peace. But, logically prefers in times of war to do the fighting far offshore and well overseas from the continental United States. The Pacific Islands of the

Central Pacific Basin, along with the Philippines, Okinawa, Japan, and Korea, constitute America's forward positions in the Asian Pacific theater of military operations. In a conventional war, our grounds are preferred for battle. In a nuclear war we are literally Target No.1.

All political and economic arrangements now in place between the U.S. and Pacific Island states and territories are fashioned to facilitate U.S. national security interests. The preservation of American hegemony is America's first objective followed by freedom of operations for its armed forces. For America's interests to be served, the U.S. military must command its "forward" positions and be able to operate from them at will. Put another way, U.S. national security interests require the colonization or neo-colonization of the Pacific states and territories that we call home.

The biggest misunderstanding that American policymakers have about Pacific Islanders is that as people of the Pacific, we are loyal citizens and genuine friends of the United States and we do not require subjugation to prove that loyalty!

The surgery performed to transplant America into the heart of the Pacific has been quite effective. We are now well underway to adjusting to this dependency, some of us more advanced than others, but all of us feeling varying degrees of pleasure and pain. As a result of this "connection", we have witnessed:

1. the development of expensive government bureaucracies becoming the dominant employer in island labor markets;
2. a mad rush to create social safety nets which are expensive and well beyond our local means;
3. the building of massive government structures which we cannot afford to maintain;
4. the partial or total control of our island's trade, commerce, and external affairs by the United States;
5. the implanting of a deficit prone form of democracy where local public officials depend on constituents' votes, who in turn depend on massive appropriations;
6. the general permeation of a welfare-oriented work ethic adversely affecting efficiency, productivity, and the desired drive towards self-sufficiency.

With this connection also comes close political relations, alliances, billions of dollars in aid, American legal and political institutions, values, indictments, not to speak of the thousands of military and federal personnel and establishments which follow the connection to sustain it.

To an unmeasured extent, the American connection also affords protection, investment security, comfort, world class identity, even a sort of authoritarian but benevolent paternalism we have all experienced, when, after foolishly spending all our allowance we rush back to a stern but loving elder to get it replenished. Because of the American-Pacific connection, we can be important well beyond our means. And, we have lots of infrastructure that would not have otherwise been available.

Once we understand the basis of the American connection in the Pacific, we can begin to grasp our leverage. We, on Guam, have something our "mother country" wants and needs. And, because of what is happening in the Philippines, combined with rapidly growing Soviet military occupation of Cam Rhan Bay, what they want and need, they want and need now more than ever. As hosts of the U.S. federal/military establishment, we can choose to be happy, contented, and cooperative or choose to be difficult, demanding, and quarrelsome. We can be part of the solution or part of the problem. No matter how we assert ourselves, we will always be part of the equation. However, as an historical observation, we have seldom been a significant factor in that equation simply because we rarely assert ourselves with any real or sustained effect.

To begin with, it has been difficult to understand the American connection in the Pacific; and because of that, it has been equally difficult for us to become reconciled to it. To be cynical, the arrangement is one-sided and of principle benefit to the dominant interest. To be fair, the same arrangement provides a lot of leverage to the weaker, indigenous interest *if we learn to correctly exploit it*. In other words, there is hope for us Pacificans, room for us, leverage available to us as hosts if we focus, set our own agendas, and learn to coordinate and exploit our mutual interests fully. Sadly, we have seldom done so, either individually or as a group.

We in the American Pacific have gotten by with poorly articulated social goals around which we have forged no real popular consensus.

We have poor or no financial plans, poor or no economic plans, poor or no social plans. We manage budgets poorly -- so poorly, that our leadership appears overdosed on spending. Spending public money we haven't got is our official addiction. We are officially hooked on appropriation measures. It is high time we take the cure.

While actively critical of each other -- both internally between executive and legislative branches of our own government as well as among our island governments -- for all things done, almost no local or regional reform or corrective action in fact occurs. We on Guam, for example, have no official municipal financial strategies, we have no real plans for cost cutting, no coordinated plans for revenue generating through expansion of the economic base. What we have is the American connection. But, because of the preoccupation of American officials with strategic military issues, important areas have been left for us to manage. We have done little to address these *home rule* questions. And because of that, we have done little effective home rule.

The task of painting a rosy picture of the future is so much easier than facing reality squarely. I could discuss the excellent outlook and prospects for the future of the American Pacific -- about trade growth, travel and tourism growth, growing Pacific markets. But what good does that serve? While there are obvious benefits enjoyed by the American connection which entice prospective investors, (i.e. security, U.S. financial assistance, this being a U.S. currency region, the growing importance of our strategic location, the economic explosion in the Asia/Pacific area) unless we start addressing the real issues we will find our economies molded into structures of perpetual dependence, with our central governments burdened beyond imagination with expensive government bureaucracies managing social welfare safety nets we can neither maintain nor afford. What we face are uncontrolled deficits and rampant tax spirals which create general economic uncertainties surely to produce an exodus of all the investors we once worked so hard to recruit.

We have just got to get our act together, so to speak, and the American connection gives us the opportunity to do just that. We, the islanders, have much at stake. Consequently, we must act for ourselves and for future generations. Otherwise, what needs to be done, won't get done. I refer specifically to the establishment of our own goals and for the formulation of the strategies required to, accomplish them; for

objectives and for workable plans to achieve them. Leadership must assert itself over politics and work toward ending the nourishment of paternalism and federal dependence. This could become the beginning of a pride in self-sufficiency that will inspire serious efforts among our people to obtain it. The time has come for Pacificans to use the American connection for ourselves as well as American officials have done for themselves. The time has come for us to go to work.

How might we proceed? First, each chief executive officer of every Pacific Island state or territory with an American connection should proclaim their intention to develop firm social and economic goals for their respective jurisdictions. In other words, there is a dire need for the development and implementation of economic or industrial development policies. The State of Hawaii did this through a State Goals Commission. Once Hawaii's goals were stated clearly, state government officials got busy designing their annual operating budgets and socio-economic development plans to accomplish the identified goals. Budgets, plans, and strategies oriented to accomplish official development objectives seem like such basic steps for island governments to take and yet not one U.S. island jurisdiction has done it.

Second, assuming that all Pacific states and territories which are obliged to develop overall economic plans as a pre-condition for using compact or other federal aid go through this goal making exercise in the last half of 1987, 1988 could be the year when technical representatives of all the islands in the American Pacific could begin to meet formally as a working commission to develop a regional development strategy. As separate units, we need to know and be guided by our separate and individual aspirations. But, as a fixed part of the larger Western Pacific Region, all with the American connection, it is equally important for us to explore the advantages of cooperation. For example, we can deal with the Federal Government better when united than divided. Also, when it comes to planning transportation, shipping, communications, tourist promotions, educational and health care services, there is a lot of common sense evidence to suggest that we should take a regional approach. It is essential to formulate regional strategies for cooperation in those areas where economies of scales are possible and where we can avoid wasteful duplication of efforts requiring scarce resources.

Third, I would like to urge that concrete steps be taking to join the region's various economic development loan funds, development

finance institutions, and incentives agencies into a regional development bank operation either through merger or joint venture. A Central Pacific regional development bank is a timely vehicle which I suggest can assist in developing and implementing financial strategies for the region as a whole. As a single larger unit, the entire region could enjoy the benefits of pooled technical expertise. In addition, the regional bank would command the attention of international capital markets, not to mention government assistance for funding various projects throughout the region.

Put in simple and basic terms, we must decide where we really want to go, what we should work on with our neighbors, and how we can best find and manage the money required to finance the development we all desire.

THE U.S. CONSTITUTION AND TERRITORIAL POLICY

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The Government of the United States has acted and continues to act counter to the Declaration on the Granting of Independence to Colonial Countries and Territories and other principles established in the United Nations Charter in that it continues to maintain political, economic, and social control over the peoples of the Pacific and Caribbean over whom the United States asserted sovereignty after the Spanish-American War of 1898 and World War II. Furthermore, the continued control of the Pacific and the Caribbean and the treatment of the inhabitants of the "territories" as insignificant obstacles to U.S. foreign and domestic policy has been legitimized by the U.S. Supreme Court in its interpretation of the U.S. Constitution. The U.S. Supreme Court has, in effect, legitimized the discriminatory treatment of the people of the territories and the perpetuation of colonialism. This paper discusses the treatment of the territories and their people under the constitutional law of the United States. (The Editors)

The Declaration on the Granting of Independence to Colonial Countries and Territories was passed by the General Assembly of the United Nations in 1960 [Resolution 1514 (XV) 12/14/60]. One of the provisions states that, "All peoples have the right to self-determination; by virtue of that right they freely determine their political status and freely pursue their economic, social, and cultural development." Furthermore, "immediate steps shall be taken, in Trust and Non-Self Governing Territories or all other territories which have not yet attained independence, to transfer all powers to the people of those territories, without any conditions or reservations, in accordance with their freely expressed will and desire, without any distinctions as to race, creed or color, in order to enable them to enjoy complete independence and freedom."

It is my position that the Government of the United States has acted and continues to act in direct contravention to the Declaration stated above and the other principles established in the United Nations Charter. Moreover, the U.S. continues to maintain political, economic, and social control over the people of Guam through a body of judicial precedents and decisions made with respect to cases from other "territories." In this, the continued dominance over Guam and the territories has been legitimized by the U.S. Supreme Court in its interpretation of the U.S. Constitution. The U.S. Supreme Court has in effect, legitimized the treatment of the people of the territories as mere subjects of the U.S. and their governments as instrumentalities of the Federal Government.

Part I of this paper will discuss the general historical and political background of Guam under Spain and the United States. Part II will discuss the treatment of Guam and its people under the Constitutional law of the United States and the present efforts of the U.S. Government in maintaining its control over the people of Guam.

PART I

The history of the world is, in many respects, the story of much tragedy and sorrow filled with blood and tears. Although it may be said that humanity has progressed in material terms, we find in history, the development of class stratification and oppression within the industrial nations and the exportation of oppression to Africa, Asia, the Americas and Oceania by dominant world powers. The so-called civilized nations of the world carried out their designs for power with the utmost brutality and barbarity, the consequences of which can still be felt today.

This is especially true in Micronesia where the populations of indigenous peoples were small to begin with, thus enabling the larger predatory colonialist powers to conquer and exploit the people and their islands. Magellan was the first European to sight an island in Micronesia. In 1521 he "discovered" Guam. After Magellan, several other explorers came to Micronesia "discovering" Belau in 1543, Yap in 1526, Ponape in 1529, and the Marshalls in the late 1500s.

Colonization did not begin in Micronesia until 1668 when Spain sent a contingent of priests and soldiers to the Marianas. From the late 1600s until the 1800s, Spain concentrated its colonization efforts in Micronesia to the Marianas since the Marianas were in a direct path between Spain's colonies in Mexico and the Philippines.

One of the goals of the missionaries was to convert the native Chamorros of the Marianas into Christians. In the effort to Christianize, the Jesuit missionaries imposed their beliefs on the people never thinking that the so-called savages were more Christian in their treatment of their fellow human beings than their Christian colonizers. The effort to Christianize was met with stiff resistance which resulted in intermittent warfare lasting from 1670 to 1695. In the beginning the Spaniards were confined to their forts, but as time passed, they became more determined in their efforts to pacify and subjugate the populace. Soldier-governors such as Esplana, Irrisari, and Quiroga instituted rule by death and terror. Whole villages were burned to the ground and inhabitants were massacred. The Spaniards would then concentrate the remaining survivors in villages that were under the strict control of the military and the church. [Carano and Sanchez, *A History of Guam*, 74-86] Many people fled to the northern islands, but in 1695 Quiroga invaded these islands and Chamorro resistance to Spanish rule was crushed. In a span of twenty-five years, an estimated pre-colonization population of 100,000 people on Guam alone was reduced to less than 5,000. By the late 1700s, the Chamorro population was reduced to under 3,000. However, the indigenous people did not cease to exist. Around the mid-1800s the indigenous Chamorros were still predominant, particularly in the outlying villages away from the colonial centers. [Thompson, *Guam and Its People*, 32]

After the wars, there arose a property owning mestizo class centered in Agana, the seat of the colonial administration. These people were the descendants of Chamorro nobility who had aligned themselves with the Spaniards. They called themselves the *manakhilo'* (high people) and refused to mix with the rest of the populace whom they referred to as the *manakpapa'* (low people). The *manakhilo'* were a wealthy and powerful group cultivating a Spanish-Catholic tradition. They were from supporters of the Catholic Church and were intimate in their relationships with the padres. They controlled large amounts of land, and held the official middle positions in the colonial system. They mingled with the Spanish administrators. They did not send their children to school but had them taught by private tutors in Spanish. The young people of the *manakhilo'* were reared strictly, and their marriages were usually arranged for them within their group.

In general, farming, fishing, and barter continued as the basis of the Chamorro economy. Even in the mid-1800s money was not valued as an essential need. But at the same time a severe transformation had taken

place as a result of colonization. Religious items were desired. Clothes became a necessity. Trinkets and other items which conferred status were wants that were created by colonization.

Economic development had its source in the colonial government which was totally dependent on the Manila Galleon for commercial goods and currency. As such, the government had a total monopoly on economic development which in turn depended on the technology and capital of the mother country and the exploitation of Spain's overseas colonies.

Concomitant with development came peonage. The same government which monopolized all trade on the island imposed a labor tax which made it mandatory for young men to work on the public roads and buildings a certain number of days each month or pay a fine. In addition, certain enterprising citizens would encourage people to go into debt by giving them loans in order to pay for necessities. In order to repay the debt, many worked on the copra plantations or gave their services in labor. This indebtedness became the pretext for an abusive system of peonage.

By 1898 the long centuries of Spanish colonization had made a lasting effect on the people of the Marianas. The people had been made passive in order to accept foreign domination. Whoever came to the island would find a pliable and subservient indigenous population.

In 1898 the United States gained colonies in the Pacific and the Caribbean. This empire-building was by no means an aberration in the development of the U.S. as a nation. It was consistent with two centuries of the repression of indigenous peoples on the North American continent, the establishment of slavery on the plantations, share-cropper slavery for poor whites, and wage slavery for the poor European immigrants in the factories of industry in the late 19th century. It was consistent with the takeover of the west and southwest in the name of "Manifest Destiny."

The expansion into the Pacific was motivated by a desire to capture the China trade and a desire to turn the Pacific into an American lake safe for American free enterprise for all time. [Pomeroy, *American Neo-Colonialism*, 15] To American imperialists, Guam played a minor role in the plan to develop the American Empire. Guam was considered a mere outpost and its people insignificant pawns in the struggle for imperial power.

The U.S. needed Guam as a place to fuel its ships between Hawaii and the Philippines and the people were to be dealt with within this "need." In the Paris Peace Protocol of 1898, Spain sold Guam, the Philippines, Puerto Rico and Cuba to the United States. While the rest of Micronesia, i.e., the Northern Marianas, the Carolines and the Marshalls were sold to Germany.

In 1898, the U.S. established a one man military dictatorship under the Department of the Navy. The Naval Commander on Guam was also the Governor, whose power was virtually absolute and whose actions could be checked only by his immediate military superiors and the President. The business of running the island was within the power of the governor and a bureaucracy in which all the positions at the upper and middle levels of administration were held by naval officers, none of whom were Chamorros. Because the Navy had wide latitude in all aspects of island life, the exclusion of the Chamorro people from important positions ultimately meant that they were to be precluded from running their own island and their own lives. The government of the island and the governing of the people was no different than under Spanish colonial rule and some have maintained that it was even less democratic.

One of the clearest manifestations of the U.S. Government's desire to colonize the people of Guam was in the area of education. In 1922 under a major reorganization of the educational system, regulations and curriculum relating to the school system were revised and patterned after the California school system. All instructions was in English, and the Chamorro language was prohibited in the classrooms and on the playgrounds. Chamorro children were punished for speaking Chamorro in the classrooms or in the playgrounds. In furtherance of its desire to Americanize the people, Chamorro dictionaries were collected and burned. [Thompson, 218]

The purpose of the educational system was clear. As early as 1908, Governor Dorn stated that, "... with the spread of the public school system and the sentiments thereby inculcated in the minds of the younger generation, the United States will have in Guam, a most loyal and devoted possession." [Carano and Sanchez, 209] The educational system negatively affected every aspect of Chamorro life. Children were taught to view the U.S. with blind respect. At the same time, Chamorro culture was denigrated, and the Chamorro students were taught to be ashamed of their culture, their parents, and themselves.

The educational system also laid the foundation for the transformation of the Chamorro economy. The schools took children away from their homes and ranches, thus placing a great strain on the traditional economy. The schools were also instrumental in molding the values of young people who were taught to be interested in making money, gaining status, and consuming American goods rather than making a living through the traditional economy.

When the Americans came to Guam, they stressed the use of money as the form of exchange. An attempt was made to abolish barter and taxes were imposed which had to be paid in money. Besides instituting the land tax, every Chamorro male between eighteen and sixty was required to contribute ten to fifteen days labor annually on public works or pay a direct personal tax. Later the conscription for labor was dropped in favor of a direct tax.

Although the economy of the island was still based on traditional farming and fishing, a series of factors led to the gradual transformation of the economy in pre-World War II Guam. The imposition of the land tax for example, appears to have caused the poorest of families to lose their land simply because they could not pay the tax. In addition it appears that taxes spurred the creation of copra plantations in order to produce a surplus to sell for export in the world market in exchange for money. These examples, in addition to the role that education played as a colonial tool led to the gradual development of economic dependency on the United States.

The colonial administration was run by American naval officers. In pre-war Guam, the colonial system, as in other parts of the world, was racist in nature. During the Spanish regime, colonial officials mingled with the Chamorro nobility who had accepted them as rulers, eventually forming a new mestizo class. The Americans however, set up their own social group which totally excluded Chamorros. [Thompson, 56] The outlook towards Chamorros in the early period can be captured in the following statement made by Governor Commander Dyer in 1905: The people were considered " poor, ignorant, very dirty in their habits, but gentle and very religious ... (They were) like children, easily controlled and readily influenced by example good and bad." [Carano and Sanchez, 201-202]

Thompson elaborated on the structure of the military government as it existed in the Thirties.

As the years passed , the naval government of Guam was established according to the battleship or navy yard prototype Each department was headed by a naval officer who remained on the island not more than two years. Most of the work was done by trained experienced Guamanians who held permanent positions in the naval government. Regardless of his duties and responsibilities however, no native has ever held a top position in the naval government. [Thompson, 72]

Prior to World War II both the U.S. and Japan were competitors for control over the Pacific and Asia. Japan had been active in developing the rest of Micronesia economically and militarily after it acquired these islands in 1914. Although Guam's strategic position was "appreciated", since it was surrounded by Japanese controlled islands, the Navy on June 11, 1931, unbeknownst to the Chamorro people, ordered that the island be demilitarized. All weapons and fortifications were disassembled and removed, thereby implementing a key strategy decision not to prepare Guam to repulse a foreign attack. [Leibowitz, *Virginia Journal of International Law* 1, 56] One month before the attack on Pearl Harbor, all American military dependents were evacuated from the island of Guam. The invasion of Guam after the attack on Pearl Harbor caught the Chamorro people by surprise. The interests of the Chamorro people were not considered to be of significance and the U.S. military had deserted them.

After a three year interlude under a brutal and despotic Japanese occupation, the United States recaptured Guam. During the reoccupation, American bombers completely wiped out and leveled to the ground several villages and the capital which housed the majority of the populace. The people were forced to live in government camps. Some hid in the jungle. The people of Guam who survived the war were subsequently relocated to temporary villages. In addition the Americans took more than one third of the island for military purposes without adequate compensation in a manner heedless of due process. The loss of this land made the people even more dependent on the U.S. military government after the reoccupation. In essence it ripped the people away from the land and the sea, their traditional sources of survival.

The military government established after the war had more power than the pre-war naval government. Everything was regulated under the

eyes of the military government. With this power, the U.S. Navy totally changed the face of Guam.

The combined efforts of the military government through the destruction of the economy and the education of the young led to the Americanization of the people. The fact that the U.S. through the military had absolute control over the lives of the Chamorro people is a testament to the pervasive effect of American colonialism.

The effectiveness of this effort bore fruit in several statements made by several Chamorros before a Senate Sub-committee on the proposed granting of an Organic Act to Guam:

Before the treaty ceding Puerto Rico and Guam to the United States was ratified by the Congress on April 11, 1899, we accepted American sovereignty without question Our loyalty has never been questioned. There has been and always shall be only one "ism" in Guam and that is Americanism

We have been under your benevolent protection and tutelage for over 50 years. We have learned your history, culture, customs, and traditions; we have adopted your language and assimilated your ideals and ways of life; we have never subscribed to any foreign ideologies or influences; we pledge allegiance to no flag except the stars and stripes. . . [Carano and Sanchez, 358]

These statements indicate the level of success of not only the colonization process under the United States but the three hundred years prior to 1898. It must also be noted that many people had the memory of the Japanese occupation still fresh in their minds and saw the U.S. as their savior. Many Chamorros did not know that back in 1931 the U.S. made a military decision to defortify Guam. Moreover, many naively believed that the U.S. "liberated" Guam from the Japanese because of love for the Chamorro people, rather than as part of a general strategy.

In return for demonstrating loyalty to the U.S., an Organic Act was conferred upon the Chamorro people, and ratified by the U.S. Congress in 1950. Under the Act the administration of Guam was transferred from the Department of the Navy to the Department of Interior.

Economic development in the 1950s, 60s and 70s proceeded at a much faster pace than the pre-war period. This was due to the factors already mentioned above, namely: the destruction of the traditional economy, the imposition of the educational system, and the very presence of the U.S. on the island. This development was closely tied to the growing militarization of the Pacific area carried out by the United States. The Korean and Vietnam Wars boosted the economy. Later on, tourism began to develop as an "industry" particularly in the late 60s and early 70s. In spite of this, economic development remained very superficial. The government, as in Spanish times, continued to be the primary employer which in turn was totally dependent on the United States for its existence. There was and is no Chamorro controlled fishing industry in spite of the fact that we are surrounded by ocean. There is no Chamorro controlled shipping or freight industry. These industries are controlled by the American and Japanese multinationals who profit from the exploitation of Guam's waters and strategic position.

Because of Guam's heavy reliance on imports, the cost of living is higher than that of most communities in the United States including Hawaii. Yet, at the same time 24% of the 16,850 families on Guam had income under \$7,000. per annum in 1977; 23% had income between \$7,000 and \$13,000 per year. Thus 47% of all families had income under \$13,000 per annum although the rate of inflation continued at a much faster rate than any other U.S. community. These problems are aggravated by the fact that there are large numbers of non-Chamorro workers and professionals, who are predominantly from Asia and have taken over certain jobs in the economy. These people have come to escape the poor economic and political situations in their homelands. The result is that the multinationals exploit their labor for low wages preventing Chamorros from taking employment. This problem is aggravated by the fact that as a dependent non-self governing territory, Guam has no power to control its own immigration.

What has been the effect of these past few years under the Organic Act? The following statements will give an indication.

... becoming U.S. citizens meant a cultural break with the past. No one questioned the curriculum, despite its obvious lack of connection to Guam, its heritage, or economic needs. The people self-consciously avoided connection with the past and even adopted the name Guamanian as symbolic of their new status.

References to Chamorro identity and culture were in the nature of embarrassed admission about a primitive past. Families who viewed themselves as members of the elite adopted English as their home language. By the late 60s children learned Chamorro only by listening to adults. The long line of direct enculturation in the home had been effectively mangled. The fruition of Navy policies had been delayed but eventually came to pass.

In terms of absolute numbers, the Chamorro population has dropped since 1976. Their percentage of the total enrollment dropped accordingly. All other groups have gone up steadily in recent years. In absolute numbers, the Filipinos have had a 600% total increase in population since 1960.

In economic terms, Chamorros are either in high management or unskilled positions. There are not many in the private sector of the economy. Asians, Filipinos and statesiders dominate small businesses, construction jobs and managerial positions respectively in the private sector. In social programs, Chamorros dominate welfare programs, low cost housing programs, to food stamp efforts A disproportionate number of Chamorros also occupy the island's correctional facility New housing developments for the wealthy have only a small number of Chamorro residents. The youth share a disproportionate amount of drug abuse problems

Obviously there is something amiss in the entire situation. The island has had tremendous economic development but for whom? We are faced with an economic structure we are not in control of, and an educational system based entirely on imported models. [Aguon, *Pacific Daily News*, May 13, 1979, 5]

PART II

The people of Guam frequently looked to the U.S. Constitution as a document which would provide the opportunity to secure rights long denied and which would provide the basis upon which self-determination could eventually occur. In this section, a review of how the U.S. Constitution has been applied to Guam is provided. There is reason to doubt that the U.S. Constitution can be a document that will facilitate Guam's self-determination. Indeed, much of the colonial status of Guam at the hands of federal officials and policies is justified and ratified by the Constitution.

From 1898 to 1949 Guam was ruled by a Naval Governor. The authority for the United States Navy to hold Guam for so long seems to be based in *Downes v. Bidwell* [182 U.S. 1, 1901] expressed by concurring Justice White:

It seems to me it is not open to serious dispute that the military arm of the government of the United States may hold and occupy conquered territory without incorporation as may seem appropriate to Congress in its discretion. The denial of the right of the civil power to do so would not, therefore prevent the holding of territory by the United States if it was deemed best by the political department of the government, but would simply necessitate that it should be exercised by the military instead of by the civil power.

In 1950, Congress gave the Chamorro people of Guam a civil government through the enactment of an Organic Act. The government was to consist of three branches: the executive, legislative, and judicial. The government was placed under the general administrative supervision of the Department of the Interior. From 1950 to 1970 the Governors of Guam were appointed by the President of the United States. After 1970 Governors were to be elected by the people.

Under the Organic Act the legislative power of Guam extends to all subjects of legislation of local application not inconsistent with the provisions of the Organic Act and the laws of the United States applicable to Guam. At the same time, however, all laws enacted by the legislature are to be reported by the Governor to the Department of the Interior, which reports the laws to Congress. Congress has the power and authority to annul all laws enacted in Guam by the Guam Legislature.

An analysis of the Organic Act clearly demonstrates that the United States continues to maintain control over Guam. The status of Guam under the Organic Act is similar to the status of Puerto Rico under the Jones Act.

United States v. Seagreaves involved the issue of whether the District Court of Guam had jurisdiction to proceed without indictment and a trial by jury. The Court relying on **Balzac v. Puerto Rico** stated that 1) there is no constitutional right to indictment and trial by jury in unincorporated territories, 2) the jury system needs citizens trained to exercise the responsibilities of jurors, a responsibility which is hard for people not brought up in fundamentally popular governments at once to acquire, and 3) neither the U.S. citizen who is a Puerto Rican nor the citizen of the U.S. residing in Puerto Rico can enjoy a constitutional right to trial by jury. The right to trial by jury need not apply to an unincorporated territory until the legislative bodies of those territories see fit to confer them after their emergence into the realm of popular government and the building of experience for their proper use.

The power of Congress, as in the case of Puerto Rico and the other territories, remains plenary. Congress has the power to directly legislate local law for the territory. [**Government of Guam v. Kaanehe**, 137 F. Supp. 189, 190, 1956] Guam as an unincorporated territory of the United States has only those powers conferred by Congress. [**Rodriguez v. Gaylord**, 429 F. Supp. 797, 1977]

The Organic Act contains a "Bill of Rights" conferred upon the Chamorros by Congress. It provides for the following:

1. The right against unreasonable searches and seizures.
2. No person should be deprived of life, liberty and property without due process of law.
3. No discrimination shall be made in Guam against any person on account of race, language, or religion, nor shall the equal protection of the laws be denied.
4. There shall be compulsory education for all children, between the ages of 6 and 16.
5. No person who advocates, aids, or belongs to any organization which advocates the overthrow by force or violence of the Government of Guam or of the United States shall be qualified to hold a public office.

It was not until 1968 that the Organic Act was amended to provide for the application of the U.S. Constitution to Guam and for elective governorship. The amendment states:

The following provisions of and amendments to the Constitution of the United States are hereby extended to Guam to the extent that they have not been previously extended to that territory and shall have the same force and effect thereas in the United States or in any State of the United States: Article I, Sec.9 Cl.2 and 3; Article IV, Sec. 2, Cl. 1; the First to Ninth Amendments inclusive; the Thirteenth Amendment; the second sentence of the section 1 of the Fourteenth Amendment; and the Fifteenth and Nineteenth Amendments. [48 USCA Sec. 1421 b (u)]

In a report made to the Chairman of the Committee on Interior and Insular Affairs, the following statement was made concerning the reason for extending the Fourteenth Amendment to Guam:

Section 8 of the bill, which should be renumbered section 9 extends to Guam the privileges and immunities clauses, the due process clause, and the equal protection of the laws clause of the Constitution. This will guarantee to all U.S. citizens in or entering Guam -- including the corporations of any of the United States -- rights of national citizenship such as the right to engage in interstate and foreign commerce, the right to appeal in proper cases to the national courts, and the right to protection abroad. [1968 U.S.Code Cong. and Admn. News, 3573]

There was a provision of the 1950 Organic Act that provided for a preference for hiring Chamorros in the government by the Presidentially appointed Governor. [48 USCA Sec. 1422c] With the passage of the 1968 amendment that allowed for elective governorship, this section was deleted. The Department of Interior commented on this deletion as follows:

Section 4 of the bill deletes the second and third sentences of subsection (a) of section (9) of the Organic Act of Guam. These sentences give preference to persons of Guamanian ancestry for jobs

with the Government of Guam as well as preference for education and in-service training opportunities offered by the Government of Guam. Removal of this language will bring the Government of Guam employment policy in conformity with the provisions of Title VII of the Civil Rights Act of 1964. [1968 U.S. Code Cong. and Admn. News, 3571]

It is interesting to note that while the Chamorro people were being allowed the right to vote for their governor, the preference for Chamorros in the government was to be eliminated. Could it be that the U.S. government was aware of the growing presence of statesiders and the problems they would face confronted with a Chamorro executive and legislature? Given the comment on the section granting the Chamorros the equal protection clause, it is not at all improbable to come to the conclusion that the purpose of eliminating the Chamorro preference was to give added assurance of "protection abroad."

The amendments to the Organic Act added the Office of the Comptroller, who would be appointed by the Department of Interior and shall not be a part of the Government of Guam. His function is to audit all accounts and expenditures of funds and property pertaining to the Government of Guam. His duty is to report to the Department of Interior and the Governor any irregularities in the handling of federal funds. [48 USC Sec. 1422 d]

Two cases exist using the equal protection clause and other constitutional standards with respect to Guam. In *Webster v. Mesa* [521 F. 2d, 442, 1975] an attack was made on a section of the Government Code of Guam which struck the names of independent candidates on nominating petitions of those voters also signing petitions for any of the partisan candidates seeking office in the Guam Legislature. Webster made the challenge based on 48 USC SEc. 1421 b (u), the Act which made the Equal Protection Clause of the Fourteenth Amendment applicable to Guam. The Court of Appeals struck the Code down:

This provision not only discriminates against independent candidates, it deprives voters of an important right to nominate the candidates of their choice. This discrimination serves no "compelling state interest." [See *Williams v. Rhodes*, 393 U.S. 23, 66]

In *Gayle v. Governor of Guam* [414 F. Supp., 636] the Governor imposed a curfew in the aftermath of a severe typhoon. The court said that because such regulations severely impinge the civil liberties of the populace and curb an individual's freedom, only a clear showing of emergent necessity could justify this imposition. Freedom of movement is a fundamental right which may be restricted only where necessary to further the most compelling state interest and such regulations must be narrowly circumscribed in order to withstand a constitutional challenge for overbreadth and vagueness.

Since the Government of Guam has only those powers that been conferred on it by Congress, can it establish a Supreme Court pursuant to a Congressional act? In *Guam v. Olsen* [431 U.S., 195] the issue was raised whether a provision in the Guam Court Reorganization Act of 1974 could enable Guam to establish a Supreme Court which would transfer to the Supreme Court the same appellate jurisdiction exercised by the Federal District Court in Guam.

The U.S. Supreme Court per Brennan with Burger in the majority said that the Guam Legislature could not divest the District Court of its appellate jurisdiction. Mr. Justice Marshall, with whom Stewart, Rehnquist, and Stevens joined dissented, analyzed the Organic Act and concluded that the absence of any indication of any superior-inferior structure in Sec. 22(a) indicates that there is no reason to consider the federal and local courts other than coequal in jurisdiction, that Congress plainly authorized the enactment of the Reorganization Act, and the people of Guam may terminate the District Court's appellate jurisdiction. [431 U.S., 205, 207]

Given this background of the cases that have been decided by the courts, we now move to the question, can the U.S. Constitution be used as a weapon to gain self-determination and provide for healthy social policies? As a way of illustrating the relationship between Guam and the U.S. Constitution, let us examine the feasibility of establishing an affirmative action program for Guam. Would an affirmative action program promulgated by the Guam Legislature to the effect that three-fourths of all government employees must be Chamorro, withstand a constitutional challenge?

In *University of California Regents v. Bakke* [438 U.S. 265, 287, 1977] Justice Powell stated that when a classification touches upon an individual's race or ethnic background, he or she is entitled to a

judicial determination that the burden he or she is asked to bear on that basis is precisely tailored to serve a compelling governmental interest. The Court, according to Powell, has never approved a classification that aids persons perceived as members of relatively victimized groups at the expense of their innocent individuals in the absence of judicial, legislative, or administrative findings of constitutional or statutory violations. [438 U.S. 307, 308, 1977] Once such findings are made, the governmental interest in preferring members of injured groups at the expense of others is substantial, since the legal rights of the victims must be vindicated. In such a case the extent of the injury and the remedy will have been judicially, legislatively, or administratively defined. Also the remedial action usually remains subject to continuing oversight to assure that it will work the least harm possible to other innocent persons competing for the benefit.

In *Fullilove v. Klutznick* [100 S. Ct. 2758] the U.S. Supreme Court upheld a 10% set aside for Minority Business Enterprises (MBEs) of public money available through the Public Works Employment Act. The Court per Berger, proceeded in a two step analysis: 1) whether the objectives of the legislation were within the power of Congress. If so, 2) was the limited use of racial and ethnic criteria in the context presented a constitutionally permissible means for achieving the congressional objectives and does not violate the equal protection component of the Due Process Clause of the Fifth Amendment. [100 S. Ct. 2772]

Concerning the first test the Court stated that the cases in parallel areas confirm that Congressional authority extends beyond the prohibition of purposeful discriminatory actions to encompass state action that has discriminatory impact perpetuating the effects of past discrimination. Furthermore, although the MBE Act recited no reambulatory findings on the subject, Congress had abundant historical basis from which it could conclude that traditional procurement practices, when applied to minority businesses, could perpetuate the effects of prior discrimination. The Court said that "in so far as the MBE program pertains to the actions of state and local grantees, Congress could have achieved its objectives by use of its power under Section 5 of the Fourteenth Amendment. We conclude that in this respect the objectives of the MBE provision are within the scope of the spending power." [100 S. Ct. 2775]

The Court then addressed the second test, i.e., whether as a means to accomplish these plainly constitutional objectives, Congress may use racial and ethnic criteria in a limited way, as a condition to a

federal grant. The Court focused on the fact that the MBE was experimental in nature, limited in extent and duration, had a waiver provision, and most of all, the detrimental effects were light.

In dealing with this racial challenge to the statute, doubts must be resolved in support of the congressional judgement that this limited program is a necessary step to effectuate the constitutional mandate for equality of opportunity. The MBE provision may be viewed as a pilot project appropriately limited in extent and duration and subject to reassessment and reevaluation by the Congress prior to any extension or reenactment. Miscarriages of administration could have only a transitory economic impact on business not encompassed by the program and would not be irreparable. . .

It is not a Constitutional defect in this program that may disappoint the expectations of nonminority firms. When effectuating a limited and properly tailored remedy to cure the effects of prior discrimination such a sharing of the burden by innocent parties is not impermissible citations. The actual burden shouldered by nonminority firms is relatively light in this connection when we consider the scope of this public works program as compared with overall construction contracting opportunities. Moreover, although we may assume that the complaining parties are innocent of any discriminatory conduct, it was within Congressional power to act on the assumption that in the past some nonminority businesses may have reaped competitive benefit over the years from the virtual exclusion of minority firms from these contracting opportunities. [100 S. Ct. 2780]

Does the Guam Legislature have the power to enact a three-fourths preference for Chamorros? The Organic Act provides that the Guam Legislature has the power to enact laws of local application. Thus on the basis of the Organic Act, it would seem that a three-fourth preference would be within the legislature's power.

However, it can be argued that the Guam Legislature derives its

ability to draft legislation not from the people of Guam, but from Congress through the Organic Act. Unlike the power vested in Congress under Section 5 of the Fourteenth Amendment which enabled Congress to establish the MBE Act in **Fullilove** there is no comparable grant of power in the Organic Act for the Guam Legislature. That is, the Guam Legislature has no power to enforce the Equal Protection Clause of the Fourteenth Amendment or the Due Process Clause of the Fifth Amendment.

This analysis is entirely consistent with the manner in which the Supreme Court, the Congress, and the President have treated the territories in the past and in the present, from **Downes v. Bidwell** in the early colonialist period, down through **Guam v. Olsen** and **Harris v. Rosario**. Needless to say, a decision affirming this analysis would once again confirm Guam's status as a colony lacking any power and the right to self-determination.

Can a finding of present effects of past discrimination be made? The **Fullilove** analysis emphasized that Congress had abundant evidence from which to conclude that minority businesses have been denied effective participation in public contracts because of the continuing effects of past discrimination.

Chamorros were excluded from high level positions from 1898 through 1949 during the period of military dictatorship under the Navy. In the 1950s however, there was a provision stating a preference for Chamorros in the hiring of government employees. It is not known whether this provision was effective or was circumvented. It must be noted that in 1950 the administration of Guam was handed over to the Department of Interior and governors were appointed by the President until 1970 when Congress in its benevolence allowed the people to vote for their governor.

An argument can be made that since the early 70s to the present there has been no overt discrimination against Chamorros since the U.S. has, on a superficial level, relinquished overt control of the Government of Guam. Although it can be argued that there is a disproportionate number of Americans in relation to the population in the government, much of the hiring is done by Chamorros.

On the other hand, the hiring of statesiders can be said to be due to two factors. Past colonial policies effectively ingrained in many Chamorros the superiority of the quality of stateside education and

statesiders, the effect of which is still being felt today. Second, in order to promote efficiency it is believed necessary to hire off-island managers and technicians. A third factor is that objectively speaking, the U.S. has, as a member of the oligopoly of industrial nations, control over technology and capital which is necessary for any sort of economic development on the islands. Until islanders are able to train their own managers and technicians, they must depend on off-island expertise.

The finding of past discrimination sufficient to satisfy the **Fullilove** test may be difficult especially in the period of the 1970s to the present. This analysis however, may be circumvented and the issue of past discrimination may never be reached if the Courts decide in the first instance that the local legislature has no power to enforce the Fourteenth and Fifth Amendments.

The issue of the validity of the preference may run into problems with the doctrine of retroactivity. In the Title VII area, the doctrine of retroactivity prevents the application of the Act to actions that occurred prior to enactment. In **Hazlewood v. United States**, [433 U.S. 299] the Supreme Court stated that racial discrimination by public employers was not made illegal under Title VII until March 24, 1972. A public employer who from that date forward made all its employment decisions in a wholly nondiscriminatory way would not violate Title VII even if it had formerly maintained an all white work force by purposefully excluding Blacks. [433 U.S. 309]

The Equal Protection Clause of the Fourteenth Amendment and the Due Process Clause of the Fifth Amendment did not apply to Guam until 1968. Following the analysis of **Hazlewood**, the discriminatory actions on the part of the U.S. Navy could be held to be not unconstitutional because the Constitution did not apply until Congress said it did. This analysis could be applied to action taken by the Court in 1983, even though the Congress did not envisage application to unincorporated territories when the Statute was enacted.

Is the three-fourths preference narrowly drawn and precisely tailored? Some of the factors which the Supreme Court relied upon in **Fullilove** were as follows: the MBE was experimental, limited in duration, subject to Congressional and administrative oversight and finally, the burden on nonminorities was relatively light. The MBE provision also had a waiver clause allowing for an exception to the amendment if a bona fide effort had been made but where minority business enterprises were not available.

Unlike the MBE, the three-fourths preference is an across the board preference and could be likened to the plan attacked in *Bakke*. There are no provisions for Congressional or administrative oversight. There is no waiver provision. The plan, if it is to achieve any sense of protection and maintain Chamorro control, must be permanent and not temporary, if another Hawaii is to be prevented. The effect of the preference would allow non-Chamorros to only one-fourth of all hires. Depending on the non-Chamorro population, it would seem that the burden placed on non-Chamorros would be far greater than what the MBE placed on nonminority contractors.

Given the above analysis, the three-fourth preference would run into serious problems under the U.S. Constitution. Given the history of the discriminatory treatment of the territories under the Constitution by the U.S. Supreme Court, Congress, and the President, the Constitution has been and continues to be an instrument of intervention and continued control of the colonies. Its potential to protect the interests of Americans in the colonies at the expense of the indigenous peoples is virtually unlimited. As seen earlier, part of the reason for extending the Fourteenth Amendment to Guam was to protect American citizens abroad, including U.S. corporations.

The principle of non-discrimination is a valid one in theory, especially when we consider the impact on truly innocent nonminorities who are sympathetic to the plight of minorities and indigenous peoples. However, the principles elucidated in *Bakke* by Justice Powell have left the door open for not so innocent racists to manipulate, on a case by case basis, the admissions process in education. Knowing that intent to discriminate is difficult to prove combined with the fact that faculties in the professional schools continue to wield considerable power in the admissions process, non-innocent faculty members have the ability to screen out "undesireable" minorities.

In the same manner, colonialism is furthered through the application of the Constitution as interpreted by the Supreme Court to the territories. Discrimination in principle is deplorable. The issue becomes complicated when we consider the aspirations of islanders to avoid what has happened to their fellow islanders in Hawaii and the people of Puerto Rico. Islanders however, are quite capable of deciding these issues in a fair and equitable manner without intervention from the U.S., yet the United States has not allowed islanders to exercise their right to self-determination and they continue to be impeded by colonialist

policies.

Based on this cursory examination, it is clear that the U.S. Constitution is a superior document for the recognition of rights of individual citizens as well as with government entities. The U.S. Constitution provides the basis upon which U.S. citizens can protect themselves from unreasonable and undemocratic treatment by fellow citizens and the authorities. However, it is not at all clear that the U.S. Constitution can provide the basis upon which a group of people can achieve self-determination. In fact, the very same document that protects individuals provides the basis upon which a group of people can be obliterated as a collective unit. In the case of non-self governing peoples, as those from Guam, the Constitution may not a friend.

CHAMORRO VOTING RIGHTS

Benjamin F. Cruz

The recognition of special electorates in special situations can be found in the American political tradition. Therefore, restricting the right to vote in a self-determination plebiscite to indigenous Chamorros and their descendents is not without constitutional precedence. Voting rights are not necessarily tied to either citizenship or land. In a stimulating and succinct legal review, the author debunks the myth of unconstitutionality regarding voting rights. Examples found in U.S. history and U.S. constitutional history of restricting the right to vote without regard to U.S. citizenship are cited as irrefutable evidence. (The Editors)

United States citizenship alone does not guarantee one of the privilege to vote in an election. Our nation's constitutional history is replete with examples of the denial of suffrage to U.S. citizens.

Two hundred years ago, after the ratification of the U.S. Constitution, the right to vote vested only in free white landholding males. Please note that women, though U.S. citizens who made up half the adult population, were not given the right to vote until the Nineteenth Amendment was ratified in 1920, one hundred and thirty years after the Constitution.

The Fifteenth Amendment, ratified in 1870, was the first constitutional amendment that addressed the voting privilege regardless of race, color, or previous servitude. This amendment was directed primarily at former black slaves.

Fifty years lapsed between the Fifteenth and Nineteenth

Amendments. Another forty years lapsed [1961] before the Twenty-third Amendment granted U.S. citizens residing in the nation's capitol, Washington D.C., the right to vote. Several hundred thousand U.S. citizens residing in the District of Columbia were denied the privilege to vote in national elections for the first 190 years of America's history.

The Twenty-fourth Amendment, ratified in 1964, prohibited the imposition of a poll tax or other tax as a prerequisite to voting, thereby assuring the privilege to hundreds of thousands of U.S. citizens who previously were precluded for financial reasons.

Prior to 1971 every U.S. citizen under the age of 21 was denied the privilege to vote. The Twenty-sixth Amendment secured the right to those 18 and over. This arbitrary age limit denied the privilege to vote to those under the age of 18.

Even the ratification of five amendments has not guaranteed the privilege to vote to all U.S. citizens. Today U.S. citizens can be denied access to the ballot because of any of the following reasons: non-registration, failure to meet minimum residency, failure to pass literacy test, inability to comprehend English, conviction of certain felonies, confinement at a mental hospital, residing in a federal reservation or U.S. Territory, such as Guam.

The U.S. Supreme Court in its denial of certification of **The Attorney General of the Territory of Guam on Behalf of all U.S. Citizens Residing in Guam Qualified to Vote pursuant to the Organic Act, et.al. v. United States of America** affirmed the Ninth Circuit Court of Appeals opinion that American Citizens residing on Guam can be denied the right to vote in a certain election, presidential elections, without violating their constitutional rights to equal protection of the laws.

Recognizing the validity of my thesis can be enhanced by a closer look at the Ninth Circuit Court Opinion which reads in part:

Thus, citizens do not vote for the President. Electors,

appointed by "each State," vote for the President. Although the merits and shortcomings of the electoral college system have been debated over the years, see, e.g. Feerick, **The Electoral College -- Why It Ought to Be Abolished**, 37 Fordham L. Rev.1 (1968); Rosenthal, **The Constitution, Congress, and Presidential Elections**, 67 Mich. L. Rev.1 (1968), it has not been replaced by direct election. ***The right to vote in presidential elections under Article II inures not in citizens but in states*** citizens vote indirectly for the President by voting for state electors. Since Guam concededly is not a state, it can have no electors, and plaintiffs cannot exercise individual votes in a presidential election. There is no constitutional violation.

A constitutional amendment would be required to permit plaintiffs to vote in a presidential election. The District of Columbia experience illustrates this point, ***for American citizens on Guam are not the first American citizens not residing in states to complain about their inability to vote in presidential elections.*** Until passage of the Twenty-third Amendment to the Constitution, American citizens who lived in the District of Columbia could not participate in presidential elections. The District of Columbia is not a state, but rather is under the exclusive control of Congress pursuant to Article I, section 8, clause 17 of the Constitution.

The Twenty-third Amendment to the Constitution solved the problem of those citizens by ordering that the District would appoint electors who would "be considered, for the purposes of the election of President and Vice President, to be electors appointed by a State" [U.S. Const. amend XXIII, S1.]

The House Committee on the Judiciary, reporting on the proposed amendment, recognized the obvious barrier of Article II, section 1, when it noted that absent an amendment, "voting rights are denied District citizens because the Constitution provides machinery only through the States for the selection of the President and Vice President. [Art. II, sec.1. H.R. Rep. No. 1698, 86th Cong. 2d Sess., reprinted in 1960 U.S. Code Cong. & Ad. News 2.] The report also observed that *"apart from the Thirteen Original States, the only areas which have achieved national voting rights have done so by becoming States as a result of the exercise by Congress of its powers to create new States pursuant to Article IV, section 3, clause 1 of the Constitution."* [See also *Sanchez v. United States*, 376 F. Supp. 239, 242.] (emphasis added)

Please take careful note of the fact that the sections underscored clearly show the need for Congress to exercise its power to create new states, or make exceptions by Constitutional amendment to allow certain U.S. citizens previously denied the voting privilege, the privilege to vote in presidential elections. Also note that the Ninth Circuit did not find a constitutional violation. In fact the Court based its decision on the constitutionally created Electoral College scheme which clearly vests the privilege to vote for the President, not in U.S. citizens, but in electors from jurisdictions that have the privilege by virtue of an agreement to be a state or in the case of the District of Columbia, by Constitutional Amendment.

I contend that this same rationale applies to a self-determination plebiscite. The Supremacy Clause of the U.S. Constitution mandates Congress to provide the "native inhabitants of Guam" with the opportunity to vote on their self-determination and that right vests in the indigenous population and their descendants and not in all U.S. citizens.

The Ninth Circuit then went on to discuss the Attorney General of Guam's next point regarding the Overseas Citizens Voting Rights Act. The Court wrote:

The plaintiffs argue that a constitutional amendment is not necessary because, since the passage of the twenty-third amendment, the Supreme Court has so expansively interpreted Congressional power over federal elections that Congress already has legislated presidential voting rights for American citizens who are not residents of any state. Specifically, plaintiffs point to the decision in *Oregon v. Mitchell*, [400 U.S. 112 (1970)] and the Overseas Citizens Voting Rights Act (OCVRA), [42 U.S.C. S 1973 dd (1976 & Supp. V 1981)] which relied upon *Mitchell* for its constitutional basis. Neither *Oregon v. Mitchell* nor the OCVRA, however, show that Congress has authorized all American citizens, even though not residents of a state, to vote in the presidential election. ***Both are premised upon the rights of citizens of states.***

Oregon v. Mitchell upheld Congressional voting rights legislation which struck down state "dual residency" provisions and substituted nationwide uniform state residency requirements for voting for presidential and vice-presidential electors. [Voting Rights Amendments of 1970, Pub.L. No. 89-110, Title II, S 202, as added Pub. L. No. 91-285, S 6, 84 Stat. 316 (codified at 42 U.S.C. S 1973 aa-1 (1976)]. ***All of the five opinions in the case assume residency in a state.*** [See 400 U.S. at 124 (J.Black); 400 U.S. at 147-50 (J. Douglas) ; 400 U.S. at 213-16 (J. Harlan); 400 U.S. at 237-40 (J. Brennan); 400 U.S. at 285-92 (J. Stewart)] . This assumption is consistent with the Voting Rights Amendments section on residency requirements, which provides

for a nationally uniform system of registration for "all duly qualified residents of [a] State." [42 U.S.C. S 1973aa-1 (d)]

The OCVRA preempted state residency voting requirements for disenfranchised American citizens who had been residents of states but, retaining their American citizenship, moved to foreign countries. Under the Act, citizens who live outside this country may vote by absentee ballot in their last state of residency, whether or not they pay taxes in that state and whether or not they have a definitive plan to return to that state.

The legislative history of the OCVRA makes clear that it was premised constitutionally on prior residence in a state. With regard to the constitutionality of the Act, a House Report stated: The Committee believes that a U.S. citizen residing outside the United States can remain a citizen of his last State of residence and domicile for purposes of voting in Federal elections under this bill, as long as he has not become a citizen of another State and has not otherwise relinquished his citizenship in such prior State. [H.R. Rep. No. 649, 94th Cong., 1st Sess. 7, reprinted in 1975 U.S. Code Cong. & Ad. News 2358, 2364] Calling the proposed legislation a "reasonable extension of the bona fide residence concept" based on *Mitchell*, [6, reprinted in 1975 U.S. Code Cong. & Ad. News at 2363] the House Report stated that the purpose of the bill was to "assure the right of otherwise qualified private U.S. citizens residing outside the United States to vote in federal elections." [1, reprinted in 1975 U.S. Code Cong. & Ad. News at 2358]

Plaintiffs' claim in this case is asserted on behalf of all voters who vote in Guam elections. It is not a claim on

behalf of those who have previously qualified to vote in a state election. The OCVRA does not evidence Congress' ability or intent to permit all voters in Guam elections to vote in presidential elections. (emphasis added)

Please note that all sentences underscored emphasize that the right to vote vests in residents or citizens of a *state* and does not inure to all by virtue of their U.S. citizenship.

The Organization of Peoples for Indigenous Rights (OPI-R) have argued that the right to vote in a plebiscite to determine Guam's future political status does not inure to all U.S. citizens residing on Guam, rather that right vests solely in the indigenous Chamorro residents and their descendants.

OPI-R petitioned the Superior Court of Guam in *Chris Perez Howard, et al v. Guam Election Commission* [SC Civil Case No 64-82] to enjoin the January 30, 1982 plebiscite on the political status desired by the electorate. The Superior Court of Guam dismissed the petition for lack of jurisdiction. The election was conducted on January 30, 1982 but no one status garnered a majority of the votes. A run-off election was scheduled for September 4, 1982. OPI-R appealed to the District Court of Guam Appellate Division in D.C. Court Case No. 82-0007A. The Court dismissed the appeal for lack of standing. The run-off election was held September 4, 1982. Less than 40% of Guam's registered voters cast a ballot in the run-off. Commonwealth was the choice of the majority of those who did cast a ballot. Pursuant to PL 16-69 the Commission on Self-Determination drafted the Territorial-Federal Relations Act that is now up for a vote on August 8, 1987.

OPI-R continued to insist that the 1982 Plebiscite/Referenda were invalid and that any Act drafted pursuant to that invalid plebiscite is also void because the vote in the 1982 Plebiscite and the 1982 Referendum were voted on by all registered voters and not restricted to

the indigenous Chamorros and their descendants.

This writer represented the Petitioners in **Cruz v. Mesa** and **Howard v. Guam Election Commission**. In the Brief filed with the District Court of Guam in June 1982, I argued that the Guam Legislature exceeded its delegated powers by passing the plebiscite bill.

The United States Constitution, Article IV, Section 3, Clause 2, reads as follows: "The Congress shall have power to dispose of and make all needful Rules and Regulations respecting the Territory or other property belonging to the United States ... " By mandate of the Constitution, all Rules and Regulations respecting the territories vests in the Congress. Said exclusive power remains with the Congress unless expressly delegated by the Congress.

The Organic Act of Guam [48 USCA 1421 et seq] recognizes and declares Guam to be an "Unincorporated Territory of the United States" [S 1421 (a)] and delegates certain legislative powers to the Guam Legislature. Federal legislation [48 USCA 1423a] relative to the power of the Legislature, and the other sections of the Organic Act do not delegate to the Guam Legislature the authority to conduct a plebiscite.

The United States Congress intent to retain the power over the political status of Guam is evidenced by the fact that the self-governance of the Territory has been delegated to the people of Guam on a piecemeal basis. In 1950, the Organic Act with its limited powers of self-government was passed by the United States Congress. Eighteen years lapsed before the United States Congress granted the people of Guam the authority to elect their own Governor. Another eight years passed before the United States Congress approved legislation authorizing the convening of a Constitutional Convention. In 1984 the Congress delegated the Guam Legislature the authority to establish a Supreme Court of Guam. The Guam Legislature's previous attempt to create a Guam Supreme Court in 1973 was struck down by the U.S. Supreme Court in **Guam v. Olsen**. [431 US 195, 97 SC 1774 (1977)]

No legislation has been passed by the United States Congress

authorizing the conduct of a plebiscite by the people of Guam. Without express delegation of this power and authority to conduct a plebiscite, the Guam Legislature and the Governor of Guam exceeded their delegated powers by purporting to enact PL 15-128 and PL 16-34. Said Public Laws conflict with the United States Constitution and are therefore unconstitutional and unenforceable.

These arguments were based on the premise Public Laws 15-128 and 16-34 conflict with two treaties ratified by the U.S. Senate. 16 Am Jur 2d Constitutional Law S75, discussed the supremacy of treaties in the following manner:

The Constitution of the United States specifically provides for the making of treaties by the Federal Government, '65' by stating that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur, '66' and the Constitution expressly defines the status of treaties of the United States by including them in the 'supremacy clause'. '67' Treaties, to the extent that they are self-executing, '68' have the force and effect of legislative enactments, and to all intents and purposes are the equivalent of acts of Congress. '69' Thus, while in force, treaties are the supreme law of the land, '70' binding not only on government, but on every citizen, '71' and overriding conflicting state statutes '72' or local ordinances, '73' as well as state constitutional provisions. '74' By express command of the Constitution, it is the duty of the judges of every state to uphold and enforce treaties of the United States, anything in the Constitution or laws on any state to the contrary notwithstanding. '75' All courts, state and national, must take judicial notice of a treaty of the United States, '76' and a self-executing treaty is binding upon the federal and state courts. '77'

The Territory of Guam was ceded to the United States by Article II of

the Treaty of Paris between the United States of America and the Kingdom of Spain. Signed at Paris, December 10, 1898; ratification advised by the Senate, February 6, 1899; ratified by the President, February 6, 1899; ratified by her Majesty the Queen Regent of Spain, March 19, 1899; ratifications exchanged at Washington, April 11, 1899; proclaimed, Washington, April 11, 1899.

Article IX of said Treaty of Paris reads as follows: ***"The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress."*** (emphasis added)

The United Nations Charter is, so far as the United States is concerned, an exercise of the treaty-making power under the Federal Constitution, [Rice v. Sioux City Memorial Park Cemetery, Inc., 349 US, 70, 99 L Ed. 897, 75 S Ct 614] and this is binding on federal and state courts. [Sei Juju v. State, 38 Cal 2d 718, 242 P2d 617]

The United Nations Charter, Chapter XI, Article 73 reads in part as follows: "Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not as yet attained a full measure of self-government recognize the principal that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end ...to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement ... " (ratified by U.S. Senate, July 29, 1945).

The United States Congress by virtue of the two treaties, quoted above, is mandated with the responsibility of determining the political status and political aspirations of the native inhabitants. The United States Congress has not seen fit to exercise or fulfill this responsibility at

this point in time.

The arguments presented in 1982 are the very same arguments used by the Ninth Circuit in denying American citizens residing on Guam the right to vote in a national Presidential election.

The 1982 Plebiscite is null and void. Congress has the responsibility over the Territory of Guam and must authorize the plebiscite. Congress can restrict the right to vote in the plebiscite to the indigenous inhabitants and their descendants without violating any American citizens' constitutional rights since the plebiscite is an exercise of the right of the indigenous inhabitants that inures from the Treaty of Paris and the United Nations Charter.

The Ninth Circuit Opinion and the OPI-R position are similar in several respects:

- The right to vote in an election inures to the state and not U.S. citizens per se.

- The right vests not because of citizenship but because of an agreement -- in the case of Presidential elections, Congressional power to admit states; in the case of Guam, this agreement is the Treaty of Paris and the United Nations Treaty ratified by the U.S. Senate.

- Congress has the constitutional power to determine who can vote in an election. In the Overseas Citizens Voting Rights Act it has chosen to exclude U.S. citizens residing on Guam from the Presidential elections. As the Ninth Circuit Court stated it, ***the legislative history of the OCVRA makes clear that it was premised constitutionally on prior residence in a state.*** When and if Congress ever exercises its Article IV powers over the Territory of Guam in implementing its treaty responsibilities to address our self-determination, it could and should premise that right to vote in the plebiscite to the prior native inhabitants and their descendants.

In conclusion, I would like to use two analogies that I hope will assist the readers to understand my position. When a Chamorro family

convenes a meeting to determine how to divide their deceased parents property, tradition and culture dictates that only the brothers and sisters meet to discuss and decide. In-laws undoubtedly have influenced or attempted to influence their spouses, but any attempt to attend the meeting and speak or vote would be considered inappropriate and meddling. No one disputes the fact that in-laws have an indirect interest in the outcome. They are loved and respected, but they are also expected to respect the custom or tradition of allowing only the immediate family/siblings to make the decision.

For those unable to comprehend or accept Chamorro tradition, let us take a local hypothetical. Three brothers develop a local supermarket chain and several other business enterprises. They employ over a thousand employees. Numerous professional and support industries develop around the 3-B businesses. Tens of thousands of people depend on 3-B for their shopping needs.

One day the brothers looked at the ledger sheets and realized that the profit margin was not as great and that they might want to retire back to their southern plantation homestead. They call a meeting to discuss and decide on what to do with 3-B Enterprises. Who should attend and vote? Should all the employees vote? Should representatives of all the distributors, maintenance, attorneys, accountants, and other support industries vote? Should the landlords of their various leaseholds vote? Didn't they all have an interest in the outcome? Should we the consumers vote? The successor company might not be as conscientious or committed.

Despite our direct or indirect interest in the outcome, none of us were given the opportunity to vote. 3-B belonged to the brothers and their families. No stocks were offered, sold, or bought. Though many people depended on 3-B for their livelihood and their needs, the decision was ultimately the family's.

A Chamorro community was ceded to the United States in a Treaty wherein the U.S. promised to protect the political status and rights of the native inhabitants. The time has come for the U.S. Congress to fulfill its responsibility to this Chamorro community, to have them exercise their

human right of self-determination. The Congress has the constitutional authority to restrict the right to vote in this plebiscite to the indigenous inhabitants and their descendants.

IMMIGRATION AND GUAM'S FUTURE

Robert A. Underwood

A society should be able to regulate its membership particularly when the resources of that society are limited and the social consequences of extensive immigration may be negative. This is a cardinal principle recognized by all sovereign entities in the world. In the case of Guam, there is a widespread desire to acquire control over immigration because of the fear of being dominated by newcomers and the finite resources which are available to an island about 200 square miles in area and thousands of miles away from any sizeable land mass. This sentiment appears to run counter to the American Dream and experience -- one that emphasizes America's immigrant past. This article explores the debate over U.S. immigration policy, the American Dream and its application to Guam's society. The legitimate desire to continue fostering a Chamorro identity is also explored. (The Editors)

During the past 30 years, Guam has experienced a rate of in-migration from U.S. and foreign sources which has literally strained the social and cultural fabric of the island and its indigenous Chamorro culture. At the same time, and perhaps with some connection, there has been a tremendous rate of out-migration of Chamorros which leads many researchers to believe that as many as 40% of all Chamorros now reside outside of Guam and the Northern Marianas. For a small Pacific Island society in the midst of rapid economic expansion, nothing can be more disruptive than rapid population changes brought on by "development."

Guam today is an island society comprised of diverse ethnic elements which draws its strength from Asian, American, and indigenous Chamorro sources. The Chamorro people still constitute the largest group and generally still control the political structure of the Government of Guam. However, based on the rate of Chamorro

out-migration and Asian (especially Filipino) in-migration during the past three decades, this will no longer be the case in the 21st century.

In a recent study conducted by Jongstra for the South Pacific Commission, the effect of the migration waves on the demographic characteristics of the island were shown to be startling. For each decade between 1950 and 1980, the percentage of natural increase for the Chamorro population varied between a negative 42 and 55%. At the same time, the natural increase of the Filipino and "other" population of Guam varied between a positive 91 and 345%. The Caucasian population showed a net decrease during the same time period, but these figures were mostly tied to military assignments. It is not clear whether they are becoming a larger "permanent" population on Guam.

These trends do not bode well for those concerned not only with the ultimate survival of the Chamorro people, but for those who may be concerned about the debilitating effects of rapid demographic change. It may simply not be healthy for a society to change with such rapidity regardless of the characteristics of the incoming migrants or the ostensible economic benefits they bring. Viewed from a Chamorro perspective, the painful lessons of the natives of Hawaii and the Maoris of New Zealand are all too obvious. As the indigenous groups were reduced in size, they did not merely cease to maintain political control over their society, they began to disintegrate as a people, as a collective body. The indigenous people ceased to be political leaders and social movers. Eventually, they themselves became social problems as their youth grew beyond their traditional grasp, as they became the inmates of corrective institutions, and as they became recipients of welfare and special educational attention. The future of the Chamorro people as a permanent underclass in the next century seems plausible.

One of the vehicles through which this scenario may be altered is for Guam to control its own immigration policy. The logic of the debate over immigration control is that if Guam were allowed the opportunity to control entry to the island from foreign (although not U.S. sources under the current system), the integrity of the Chamorro people would be promoted and the negative effects of rapid demographic change avoided. Although attractive primarily to Chamorros concerned with how the island has changed rapidly, it is also becoming increasingly popular to long-term non-Chamorro island residents who similarly decry the loss of the Chamorro, small-town ambience of Guam as it existed in past decades. As they wander through modern day shopping malls, eat at island restaurants, and attend public functions, they too are

wondering who all the strangers are around them and what their presence portends for the island society they love.

However, to argue for control of immigration seems to offend something fundamental in the political experience of America. To stand in support of the concept of managing a society in your own best interests by restricting immigration is seen by some as violating the essence of what American society is all about. There is a basic flavor to America's development as a nation and a fundamental strength to its character. It is to be found in its own immigrant past and the celebration of its peoples' diverse origins. To stand in support of limiting this diversity for future generations seems to run counter to being American. Yet, if Guam is to survive as the society we now know it to be--it must do exactly that.

In many respects, there are fundamental issues that are in direct contradiction here. The historical experience of America and the lessons that are learned from it seem to argue for a more open immigration policy born of tolerance and cognizant of America's own immigrant roots. The reality of Guam is that it is an island buffeted by strong winds of change and migration patterns that must be managed, insofar as is possible, to promote the general welfare of the existing society. These two visions and realities are in fundamental opposition and both cannot be obtained -- not in the context of Guam. It is exactly the kind of problem that calls for a political status solution. It is an example of why political status change and self-determination must occur. Enlightened self-interest, particularly when your survival is at stake, must guide one's behavior.

America's immigrant past evokes many images. Nearly every American family relates personally to the immigrant experience. Photo albums and family stories about immigrant parents and grandparents give meaning and substance to the immigrant experience in a way few non-Americans can understand. The central cultural and social experience of America is tied to a history that celebrates diversity and immigration. American culture itself is frequently described as an amalgamation of diverse elements, most of which are a product not just of home country experiences, but of the experience of immigrants mediating their existence in a new land.

To argue for a restrictive immigration policy in this context is to be almost un-American, to defile the Statue of Liberty, and to denigrate the historical meaning of an Ellis Island. Nativistic sentiments in American

society are characterized as not only narrow-minded, but as anti-American and unmindful of the greatness of America. Yet, it is quite clear that even in the midst of this celebration of America's diversity, there have been many efforts to establish limits to immigration. Asians were historically singled out for exclusion from American shores and immigration legislation in the 1920s sought to fossilize the northern European ethnic background of the majority of the American population.

In point of fact, the U.S. Government has historically sought to limit immigration as much as it has encouraged it and notwithstanding the celebration of ethnicity, U. S. policy has always sought to control the migration waves when both the public and policy makers thought the numbers damaging to American society. Today, American immigration policy is a patchwork system which treats one group of Latin American political refugees as heroes and another as pariahs and which seeks to close its borders for fear of social and economic consequences brought on by hundreds of thousands of Latin Americans. Recent estimates place the number of illegal immigrants as high as ten million although the figure may be much lower.

On the basis of this phenomenon, the U. S. has sought to develop a more effective immigration policy which reduces the numbers of immigrants and which grants amnesty to those already present in American society. However, it is clear that the intent of the policy is to say "no more" and that "enough is enough." No one can begrudge American policy makers the right and perhaps the obligation to protect the society they live in. Despite the celebration of the American Dream, most current Americans have seen the wisdom of limiting the opportunity to have this dream. This nativistic sentiment is not something new in American society, but rather something that regularly occurs among the children of immigrants once they are established in the new land.

In a country of 230 million, there are an estimated 12 million legal and illegal aliens which have caused this consternation and concern over the social fabric of the United States. Guam, with its limited resources, land area and fragile economy has proportionately a greater share of aliens. Since 1960 the population of Guam has consistently numbered between 14-17% foreign-born. If this were in fact the case in the United States, the numbers of aliens in the U. S. would be between 30-35 million. Clearly, the U. S. would organize even more restrictive policies if this were true.

The point here is to illustrate that the impact of immigration for Guam's current population and the demographic trends of the past three decades has been consistently more dramatic than the U. S. as a whole. Guam, as a port of entry, experiences rates of immigration which if occurred in the U. S. would likely bring about restrictions never before imagined. Despite the American Dream, the American reality is a consistent effort to control immigration in this century. Guam, which is disproportionately affected and which has few resources to cope with the dramatic increase should attempt to do no less.

Beyond self-protection, Guam should be willing to have its own dreams based upon its own experiences. There is simply no conceivable reason why indigenous peoples should adopt the social vision and values of an immigrant society. To do so would be not merely self-effacing, but damaging and illogical. The American Dream of immigrant success is inspiring in its own context. To apply it to a small island in the middle of the Pacific is not only incongruous, but potentially a tool of social destruction and dislocation. Guam too has an inspiring history and that history must provide the dream which inspire the island's society. For Chamorros to accept the immigrant dream is to deny their own history as a source of inspiration and as the basis upon which to construct a social vision.

There are three common criticisms of the local acquisition of the control over immigration. The first and most common is that the effort to control immigration is nothing more than an ethnically biased attempt to limit the number of Asians on the island and that it does a disservice to the contributions of immigrant populations on Guam. Quite obviously, the concern over immigration is tied to the rapid influx of foreigners to Guam. If there was no rapid in-migration, there would be no concern over the control and management of migration.

It is difficult to discuss the issue of in-migration without referring to the migrants themselves. Because of this, it is assumed by some that all discussions of immigration management are but thinly disguised expressions of prejudice towards certain groups of people. In the case of Guam, the group that has expanded in numbers and influence quite dramatically has been Filipinos. To discuss management of immigration is viewed by some as expression of anti-Filipino sentiment. To be sure, there are individuals who do privately express anti-Filipino sentiments in virulent and unacceptable ways. This is not a source of pride to the island and should not go unchecked and rejected with a great deal of justification claim that they "built" Guam in both a literal and figurative

sense. There are many examples of individual business and educational achievements which bring pride to both the Filipino community and the island itself. Filipinos point to historical influences and all Chamorros must recognize that there is at least one Filipino progenitor in each and every Chamorro family. The migration to the Mariana Islands from the Philippines in the 1800s is part of the island's history.

Yet, just as clearly it must be remembered that the migrations of the 1800s and those of the post-World War II years are different in quality, dimension and potential impact. The migrations of the 1800s took place over longer periods of time and the Filipinos were eventually assimilated into Chamorro life and culture. There is little evidence that this is occurring now except in rare, individual circumstances. Moreover, the Filipinos who migrated in the 19th century were typically similar to Chamorros in their outlook towards life and the kinds of economic activities they were prepared to engage in.

Moreover, both promoters of the Filipino contributions to Guam and their detractors fail to recognize that Filipinos are not being judged here. It is not the value of Filipinos, their economic potential, their eating habits, their customs, or their backgrounds that make a difference. It is merely the fact of numbers, the capacity of a society to absorb those numbers and the desirability of a society being able to plan its future. If the numbers come from other sources, the concern over immigration would still be there. Put simply, a discussion over immigration cannot be dismissed as an expression of ethnic prejudice nor as an affront to the contributions of immigrants. These are not the issues at stake. The issue is does a society have a right to control entry into its membership? Clearly, this is recognized as a legitimate authority for countries to have throughout the world.

This leads to the second common objection. While it may be legitimate for sovereign entities to manage their borders, Guam is not a sovereign entity. As a territory of the U.S., it cannot logically be allowed to control immigration. This right belongs to the U.S. Government to exercise. Based on previous historical experience, there appears to be some substance to this stance. The U.S. has not usually allowed any jurisdiction under its sovereignty specific authority to regulate immigration. Legally, it is clear that no state can do so since the authority over immigration is specifically given to the national government and is therefore denied to the states.

However, this is not as clearly the case with respect to entities which

are not incorporated territories, as is the case with Guam, American Samoa and the Commonwealth of the N. Mariana Islands. The last two governments are clearly granted authority over certain immigration rules and policies, although they are subject to overall federal control which can be exercised. The basis for this latitude is to be found in the U.S. Congress' plenary powers over the territories.

The curious dimension to this authority is that while Congress retains authority over nearly all dimensions of territorial life, it can grant powers to territorial entities not given to states. Territorial governments are creatures of federal authority and the lines of state and federal authority are neither drawn nor do they necessarily apply. In some instances, this may mean unusual federal intrusion into local affairs. In others, it may mean that the U.S. Government may grant powers and privileges that cannot be granted to states. Economic incentive programs such as duty free status are based on this authority and practice. Control over immigration in the interests of the territory can also be similarly given. Notwithstanding the American Dream, territories may still be allowed dreams of their own on occasion.

The last major objection is a curious one borne of Guam's colonial status. In discussing immigration control with a relative a few months ago, he argued that the control should remain with the Federal Government since the Government of Guam (GovGuam) would not be able to handle the task at hand. In other words, we should deny ourselves the right to control immigration since GovGuam officials would somehow be unable to implement a policy efficiently, smoothly, and without prejudice. The CNMI experience with garment factories tends to give some substance to these arguments.

However, the fact remains that we must be able to trust ourselves to manage our own society. Inability to do so and the lack of confidence associated with it are not by-products of the GovGuam experience. There is no legitimate reason to believe that we can't do it. Any lingering self-doubts are the product of colonial relationships in which we continually look at ourselves in a negative light. We do not trust ourselves, we do not believe in our capacity to do things, and we continually criticize ourselves without reason.

Besides, this is not pertinent to the issue. The issue is 'should we control immigration'. Implementation and policy decisions are the next step. We do not abandon schools if we fail to educate nor do we disband the police force if they fail to solve crimes. Instead, we seek to build

better schools and train better policemen. The issue of immigration control is not one of implementation or even specific policies. If we do organize our own immigration policies, such policies may be more open and may change to adapt to new conditions. There can be no foretelling about the precise nature of a future immigration policy. What is clear is that it should be ours to determine.

Guam is an isolated island with few natural resources. The population density is already greater than any state in the United States. It has received migration waves that have altered the social and economic fabric of the island. There is a real and possible danger that the future may even be more problematic. But regardless of how the past changes are viewed, we should be allowed to determine our own policy. It should be the cornerstone of our existence. We must exercise this right locally. We may differ about the meaning of immigration in the past and its possibilities in the future. No one should be able to argue that any debate over immigration should be muted locally. We should debate, discuss, and analyze. Most importantly, we should be able to make decisions based on this debate. Immigration needs to be locally managed.

A CHAMORRO FAMILY TRAGEDY: LAND AND THE U.S. MILITARY

Tony Artero

No single issue is more likely to generate Chamorro unity than the question of land. Nearly every Chamorro recognizes that substantial acreage of Guam real estate has been taken by the U.S. Government under suspicious circumstances and that nearly all compensation for it was so low that some commentators have labeled it little more than "thinly disguised thievery." The question of land ownership and the Federal Government's acquisition of 35% of the island is particularly critical for the cultural and economic survival of a Pacific Island people who live on a limited land area.

In this treatment of the issue, it is clearly documented that Guam's political status or lack of it and the inability of the Chamorro people to exercise self-determination are clearly connected to the land takings. The taking of Chamorro lands was not just an isolated chapter in history when some Naval Officers and federal policy-makers made a few questionable decisions. It was a process which symbolized more than any other, the powerlessness of a people who have yet to exercise their self-determination. (The Editors)

To understand the collective tragedies of Chamorro families who have lost their lands, a short review of some of the basic factual problems about "real estate" today is in order. These facts will support the position that some present laws and governmental regulations both local and federal, pertaining to the use of land on Guam are oppressive and unjust. The implementation of these laws and regulations not only hinder economic development and progress but are anti free enterprise and are counterproductive for Chamorros and the economy of Guam in

general. These governmental obstacles must be dealt with first because they stand in the way of solutions to other problems associated with the quest for maximum and best utilization of our land.

Unfortunately, problems with misguided laws and regulations are resolveable only through costly and time consuming legal maneuverings. Additionally, with few exceptions, politicians view this issue not only as a minor irritant, but also as the self-serving concern of only the persons involved (so-called *land owners*) and is therefore ignored. Some politicians do not understand the connection between injustice to individual landowners and the Chamorro people as a whole, nor do they understand the impact on the economy.

By taking large amounts of land out of circulation, the U.S. military has denied the Chamorro people the right and opportunity to effectively participate in the economic boom of the late 1960s and 1970s. Instead, outside interests have profited from whatever economic benefits have come to Guam in the past two decades. The fact that the military took control of this land when the Chamorros were prostrate socially and economically and without any political power, only dramatizes how unjust and truly imperialistic the U.S. military behaved. The fact of the land takings binds all Chamorros, because their collective powerlessness made it possible for their land to be taken originally. Moreover, the general lack of Chamorro participation in the economic upturns of recent years is a direct consequence of this lost bargaining chip -- their land.

In order to have a full appreciation of the problem on land utilization today, we must reacquaint ourselves with the fact that all life on the surface of this planet is dependent on the land, its products, and the water which surrounds it. Despite all advances of science, this concern with the land is as vital today as it was when the first upright man sought means to protect his home and his meager possessions for his security, and the security of his family or tribe. Land has been referred to as the Great Mother and the ancients set up and worshipped special deities whose allocated province was the land and the fruits thereof. It has been truly said that "beneath all is the land."

We must also focus our attention on the fact that the physical size of the earth at the time it was created by God and the size of the earth as it is today is virtually the same. No one has yet invented a way to increase the size of the earth. The increase in population, development of science, and the evolution of industry today have only increased land

value as land becomes more scarce. This is true everywhere, but particularly in the case of small societies where land and its ownership is central to survival.

Since before human beings became civilized, people on this planet have made many untold attempts to devise a method for establishing and declaring ownership. With the refinement of civilization came *title* and *certificate of ownership* to land. Today, a *fee simple* title of ownership to a piece of real property implies that its owner possesses the highest type and biggest bundle of rights a person can have in land. It is of indefinite duration, and is freely transferable and inheritable. It is an absolute ownership, and as long as the law is obeyed, the owner has the right to the land. These rights or any right of tenure to real property is protected by the law of the government in most countries in the world except those that "nationalize" or impose communal rights over private rights to property. In the American system, the right of tenure to real estate, even to a non U.S. citizen, is protected by the U.S. Constitution. This system of private, individual ownership had historically been established and practiced on Guam for generations even prior to the arrival of Americans.

The following facts support the argument that in Guam's case, the Federal Government is oppressive and unjust. Guam's tragedy began with World War II and the years that followed. During the war, the Chamorro people endured hardships, torture, famine, and the untimely death of a large number of people associated with the calamities of a brutal war and occupation. These tribulations continued after the war as the United States (the Department of Defense) violated the Treaty of Paris of 1898 and the Constitution of the United States by forcefully taking privately owned land from the owners for defense purposes. At first people were happy to cooperate, assuming that the land was needed to win the war against Japan. However, it soon became clear that these actions were permanent.

The unconscionable actions taken by U.S. officials on Guam by seizing of privately owned land from people who had very little left after a brutal war is a classic example of tyranny. The people of Guam were victimized by power and might under the barrels of the guns of the U.S. Government who stripped them of their dignity. Land's perpetual essence, its capacity to be cultivated, developed, and transferred is priceless for the people of a small island. No amount of food stamps can or will ever be an equal to land. The U.S. Government's seizure of

privately owned real estate in Guam is a violation of the private property rights of a people who were not even U.S. citizens, which meant that the application of the U.S. law of eminent domain was questionable. There was compensation, but even then, everyone realized that it was a joke. Moreover, appeals were heard by military officers and judges.

Guam's limited land resources, merely 225 square miles in size, is of vital importance to the United States in its entirety because of the island's strategic location. The island of Guam makes it possible for the U.S. to have a stronghold and a forward program for defense ten thousand miles away from Washington D.C. By having full control of the island of Guam, the chance of ever repeating the 7th of December 1941 bombing of Pearl Harbor is negligible. And the safety, security, and well being of the U.S. mainland is virtually guaranteed, but at the expense of the property rights of a people "liberated" by the Stars and Stripes.

I believe that the U.S. planners wished all the people on the island of Guam (both Japanese and Chamorros) had been killed when Guam was bombarded heavily in preparation for the reoccupation. If such was the case, then there would have been no question as to the clear title to the ownership of the entire island. It would have been just like Wake Island. The U.S. merely occupied Wake, won the war, now all the land on Wake belongs to the Federal Government, no questions asked. Guam was not an island with people, it was a military objective in which the people were seen as the savannah and the reef. No one negotiates with the weeds and coral.

This observation is supported by the major differences in the attacks that took place on Guam. When the Japanese attacked in 1941, (this includes the attack at Pearl Harbor) they aimed only at military installations. But when the U.S. came back to Guam in 1944, their bombs were being dropped everywhere and anywhere. Not only were military targets totally destroyed, but also homes, churches, schools, and hospitals. Agana, the home to 50% of the Chamorros, was leveled.

Unfortunately for military planners the Chamorros didn't all die. Nevertheless, in more ways than one, the planners behaved as if we were all killed or never even existed. This argument about Chamorro rights is occasionally thought of and discussed among people in the military from the U.S. mainland and from the island of Guam. The discussion is usually deep and involved and sometimes turns into a heated exchange of unfriendly words. At the end of such discussions,

the islander, always outnumbered, is usually mocked, ridiculed and is made to feel as if he is nothing. Chamorro rights do not exist. In fact we had no rights other than those granted to us by Americans.

The initial cover-up to these injustices was the granting of U.S. citizenship. The people of Guam were *given* citizenship in 1950 in exchange for land *illegally seized*. By declaring everyone a U.S. citizen, the land seized was for "our" defense, "our" national purpose. To refuse and to criticize the injustice was no longer a defense of our God-given rights to land, but became unpatriotic and unAmerican. Psychologically and politically, we were defeated. And even today we are still denied the right to cast a ballot in the election of "our" President. In Guam USA, the belief in liberty is mocked because there is very little liberty and a whole lot of unhappiness. How can anyone even begin to pursue happiness if their basic essentials to life are deprived? Without land, Pacific Islanders are nothing.

"Freedom" is the glory of the United States of America and its citizens. However, in Guam, the U.S. might as well be flying the Hammer and Sickle instead of the Stars and Stripes, for in Guam there is little freedom in the use of privately owned real property. Even for those who continue to hold on to land, military restrictions still may apply. This the tragic case of the Artero property at Urunao in the north of Guam. We are required to carry military issued ID cards, and must still request permission for ingress/egress to our privately owned land, and only after tedious and hectic procedures are followed in advance.

The help we need in Guam is to make the Federal Government realize that any negotiation regarding real estate must be bilateral. The military land holdings on Guam far exceed any legitimate present or future military need, and the Federal Government does not dispute this. The military should not be allowed to arbitrarily confiscate any property without just compensation. They did it however, and are still doing it, and at a fixed price. And, they expect the people of Guam not to squirm and object.

Clearly, the solution to this quandry is not just to recognize our rights as human beings but as Chamorros. For it was our status as Chamorros in the beginning which led to our exploitation. It must also be the basis upon which we build our salvation.

Two examples of this injustice are provided below. The first pertains

to private property still in private hands, but which is still restricted. The second deals with compensation for land stolen forty plus years ago.

**Example One: Artero Family Position Paper on Urunao
Beach Property Lot Number 10080
Guam, a U.S. Territory**

In recognition of the expected visit of Mr. Rittenhouse, Installations Management Deputy to James F. Boatright, Deputy Assistant Secretary of the Air Force (Installations, Environment and Safety) to Guam on or about May 17, 1984, the Artero Family submitted a unanimous family position with respect to their Urunao Beach property for consideration by the appropriate officials. The Artero Family requested that negotiations be conducted with speed between United States Government officials representing the interests of the Air Force and the Navy and the Artero Family to address and resolve the points of contention specified below.

1. ACCESS TO URUNAO PROPERTY

The Artero Family seeks free and unhindered access to our Urunao Beach property for ourselves, and our personal and business invitees.

2. RECOUPMENT OF LOST PROPERTY

As a result of survey and recording irregularities incorporated into the post-war military land condemnations on Guam, the Artero Family lost vast amounts of cliff-line property overlooking our Urunao Beach property. No condemnation or compensation has ever been effected with regard to this property.

3. COMPENSATION FOR DENIAL OF LAND USE

As a direct result of the denial of access to our Urunao property by the United States Military, the Artero Family has lost the benefit of our family property for subsistence and income. Numerous proposals have been received by the Artero Family for lucrative commercial use of the property all of which have been frustrated by the military access denial.

4. CESSATION OF AND COMPENSATION FOR REFUSE DUMPING

For many years the United States Military has utilized various sites on our Urunao property as dumping sites for military refuse constituting a nuisance, a hazard, and a violation of our property rights.

5. CESSATION OF AND COMPENSATION FOR HARRASSMENT,

INTIMIDATION, AND HUMILIATION

In spite of the unquestioned history of loyalty of the Artero Family to the United States, many of our family members have been subjected to extreme harrassment, intimidation, and humiliation, including gunpoint arrest and incarceration, in front of invited guests while peacefully seeking to gain access to our Urunao property. The Artero Family does not deserve the treatment accorded by military security personnel.

The above five (5) points were considered and approved by the Artero Family; and, were presented as a starting point for negotiation of long standing grievances with the United States Military regarding our Urunao property. These points were developed without professional advice and hence may not be exhaustive of issues which are in need of being addressed at appropriate negotiations.

The original of this document was signed on the 17th of May 1984 by the members of the Artero Family and presented to Rittenhouse during his visit to the Urunao Beach property on the same day, where a barbecue picnic was held in his honor. He showed genuine concern of the problems and promised immediate results. The following is what actually took place.

A BIASED REPORT

A Congressional Study completed on February 22, 1985 recommended that regarding the four hundred twenty-five acres of beach front property privately owned and landlocked by military reservations for the past 42 years, the "Air Force obtain fee ownership by exchange or purchase of the private property in question at the price of \$8.5 million."

Why would they consider exchange? Obviously they have land that they do not really need. Do they really need this other property? Absolutely not! I call this a biased report because the Study ignored the fact that the property owners have already lost vast amounts of cliff-line property overlooking the four hundred twenty-five acres of Urunao Beach front property during the taking without any compensation.

In addition, the Study ignored the fact that in the past 42 years, the property owners were oppressed and denied utilization of the remaining 425 landlocked acres due to severe military restrictions. The Study also ignored the fact that a portion of the property was used by the Federal

Government as a dump site for surplus war material, without the property owners' consent, and without any compensation to the owners. This reckless use of the land is in no way acceptable.

Furthermore, the Study's recommendation to purchase property, at any price for that matter, will only compound a counterproductive situation created by the Federal Government 42 years ago which transformed Guam into a civil service economy similar to a welfare state. Once again, we were being offered food stamps for our land.

The Federal Government is now in the process of divesting itself of all surplus land throughout the U.S. but not on Guam. The above recommendation is therefore astonishing, to say the least, because it serves no other purpose than to aggravate the chaotic economic problems on Guam and to increase the already uncontrollable escalating deficit of our country.

THE FIXED APPRAISAL REPORT

An appraisal by Conboy and Associates Ltd. of Hawaii subsequently completed on April 30, 1986 paid for by the Navy reported the value of the property in question to be worth only \$1.35 million. This negated the Congressional Study's recommendation to purchase the same property at \$8.6 million. Again, this serves as an example of how convenient it is for the Federal Government to pay exorbitant fees to "hired guns" in the form of lawyers and appraisers to go against a money poor land owner, because the U.S. Government has almost unlimited dollar resources from our own tax dollars. This leads me to think that the battle cry of some federal agents is: "Damn the deficit, full speed ahead."

Beach front property on Guam today which is suitable for resort development is selling at approximately \$400. per square meter. This means that at half this price, the property in question is worth at least \$200. million, certainly not \$8.5 million and absolutely not \$1.35 million.

Example Two

Compensation for land claims, which deals with approximately 50,000 acres of the choicest land on Guam taken by the Federal Government during and after World War II, has been decided by the United States District Court for the Northern District of California. The Court determined that \$39.5 million is a just amount to compensate the

owners for having been deprived of their property for 42 years, property which is forever lost to them. That amount equates to \$790. per acre on the average of the choicest land. Today, landowners are selling quarter acre house lots almost anywhere on the island for a price of \$15,000. on the average. This means that for the choicest 50,000 acreage of our land, the price should be at least \$2.4 billion on the low end and up to \$16.2 billion on the high side of today's market. The payment of compensation to landowners should be based on today's market value. It should certainly not be valued at the time the land was illegally taken. Principally because the landowners have already suffered untold damages resulting from the denial of their legal and equitable right to their property for the past 42 years at no fault of their own.

Our Chamorro parents were betrayed by the Federal Government after we were used and abused during World War II. If we are to hasten and accept an unjust amount because of the temptation of a few lousy dollars, we will be likewise betraying our own parents.

Also, the method designed by the Court for the distribution of its proclaimed "just amount" of \$39.5 million created a situation whereby the land claimants were pitted against each other for shares. I ask, "what kind of justice is it where cheap dollars, muscles, and might were used to force acceptance of an outrageously low offer without provisions for proper disbursement?" Instead, the Court gracefully made provisions for the Federal Government to withdraw their ridiculous offer entirely, if they so desired, and not pay anything at all.

After several decades of untold damage done to the people of Guam by the Federal Government through violations of private property rights, the Government wants to add insult to injury by flexing its muscles through continual use of oppressive unilateral policies that affect private businesses, economic development, and the general welfare. We are tired of being denied our legal, equitable, and human rights under the cloak of "National Security Interests of the United States," without just compensation. In the words of Franklin Delano Roosevelt, "We must remember that any oppression, any injustice, any hatred is a wedge designed to attack our civilization."

It is ironic that the U.S. Government is paying the Government of the Philippines over \$80. million a year for land leases alone, where the land will forever be owned by the Filipinos. Furthermore, an additional \$200. million was recently justified to be paid to the Philippines on top of the

annual land lease payments. And all along, private land owners on Guam continue to suffer extended damages from overdue compensation, lack of freedom and insults only to become a primary nuclear war target to insure U.S. mainland total security.

The island of Guam was originally called Guahan. In the Chamorro language Guahan means "we have." Before World War II, Guam was a self-supporting and independent agrarian society. Apparently, our ancestors mastered the technique of the maximum and best use of the land. To date, the Federal Government has not succeeded in -- and perhaps has no intention to -- replacing the loss of basic essentials such as: cattle grazing lands, a single saw mill, and a single livestock slaughter house. We had all those, and more, before the Artero land was seized.

What the Federal Government succeeded in doing was taking over one third of the entire island. They picked the vital and choice properties across the island, that were once upon a time supporting the island's local economy, and converted them into military bases. The properties taken extend from Ritidian Point, the northernmost tip of Guam, to as far south as Mount Lamlam, about four miles from the island's southernmost tip. Over fifty percent of the land taken is not being used or needed.

It would definitely save the Federal Government millions of dollars every year if the Federal Government consolidated its bases into one military base on Guam for all branches of the armed forces. It is very obvious to the most casual observer that since Guam is represented by only a small dot on a scaled map, as compared to the continental United States, there is no major strategic need for military bases on Guam to spread out like they are on the American continent. One nuclear bomb could destroy all man-made structures and all life on Guam, except maybe the roaches. After the Federal Government (i.e. the Department of Defense) accomplishes that feat, and returns surplus land to its rightful owners, we can then revitalize the maximum and best use of our land as in the days of our forefathers, and bring Guam back to being self-sufficient rather than being a welfare state.

What has happened to Guam and its people is not only "taxation without representation," but taxation with oppression. Guam is now described as the "Central U.S. Nuclear Weapons Base in the Western Pacific" with approximately 368 nuclear warheads. This, of course, is excellent with respect to military logistics and strategy in the protector of the U.S. mainland. However, in the meantime we are placed at a

disadvantage by becoming a vital and primary target after our land was seized and our dignity stripped. We have the Federal Government growing nuclear missiles on our land. The Chamorros and their land are forever providing for the guarantee of the security, safety, and welfare of the U.S. mainland in return for food stamps. I say again, no amount of food stamps can or will ever equate to land. Land makes people innovative and industrious, so that we can prosper.

I know these facts to be true because I am a victim of federal land seizures. As a realtor and private property owner, I have to deal with this issue on a daily basis. I find the issue time consuming and unproductive because a great deal of people involved in the land seizure seek answers and remedies from a real estate professional who cannot render legal assistance. As a retired U.S. Navy Submariner, I find the issue appalling because it makes a mockery of what I believe in, mainly the rights embodied in the Consitution of the United States.

We, the people of Guam, are sometimes considered U.S. citizens, but only when it is for the convenience or in the interest of the United States. Otherwise, we are often considered as foreign, or just plain nothing. Our pleas concerning our interests have fallen on deaf ears. This matter is not about anything petty and narrow, precisely because time is of the essence.

Guam is a place where the people are strong and stand proud to be where "America's Day Begins." But, Guam is where democracy and the system of free enterprise is vitually removed by military imperialism and forgotten. Guam is also a place where time has run out on some and very little is left for others. For the United States of America time is eternal. We want nothing more than our own private real property back or a fair compensation for its use or denial of its use.

The United States of America must return to the landowners of Guam all the property seized by the military during World War II and prior to the signing of the Organic Act of 1950. Subsequently, a bilaterally negotiated settlement should be established with the owners. All we are asking for are similar agreements to those which exist with the Philippines and the Micronesian Islands. Federal Government should lease only the property actually needed by the United States.

THE ORGANIZATION OF PEOPLE FOR INDIGENOUS RIGHTS: A COMMITMENT TOWARDS SELF-DETERMINATION

Hope Alvarez Cristobal

At the forefront of advocating indigenous rights is the Organization of People for Indigenous Rights [OPI-R]. OPI-R's existence is devoted to the recognition and exercise of the Chamorro right to self-determination. In its struggle for recognition of Chamorro self-determination, OPI-R has made presentations to the United Nations, to other international organizations, to the U.S. Congress as well as in a wide variety of forums on Guam. This statement outlines the basic position of the OPI-R with clarity, strength, and conviction. The group's position is based on the historical denial of self-determination to the inhabitants of Guam, a denial which is widely acknowledged and forms the basis for the current self-determination process. Consequently, to allow all to participate in political self-determination is illogical and a denial of the Chamorro right to this political destiny. (The Editors)

Historical

For over 300 years the Chamorro people have been subject to outside nations without the Chamorro people's consent. Since World War II, nearly all of the world's other colonies have become independent states or permanently integrated into existing nations by exercising their right to self-determination. Guam remains a possession of the United States, the Chamorro people not having exercised their right.

Legal

Articles 1(2) and 55 of the United Nations Charter proclaim the principle of self-determination and Article 73 obligates all administrators of non-self governing territories to protect and assist the people of the territories in their development towards full self-government.

This responsibility is a treaty obligation which the United States recognizes as law and which has been acknowledged and quoted by both federal and territorial policy statements on political status for the past two decades.

United Nations General Assembly Resolution 1514(XV) declares that all people have the right to self-determination and by virtue of that right they freely determine their political status.

Each year the United Nations Resolutions regarding the Territory of Guam reaffirms the inalienable right of the people of Guam to self-determination.

Human Rights

One of the strongest movements in recent times is the recognition of the inherent and moral rights of indigenous people, particularly those who are non-self governing. The Chamorro people fit this category on all counts and should be allowed the opportunity to decide their fate.

I. The Chamorro people, Colonization and Self-Determination

Over 4,000 years ago the Marianas Islands were settled by a group of people who eventually came to be known as the Chamorros. In their isolation from the rest of the world, the Chamorro people developed a complex caste social structure and lived in relative harmony with their environment and each other. Their existence was rudely awakened by their "discovery" by Europeans and eventual settlement of their islands by foreigners. Spanish missionaries came in 1668 and brought a garrison of soldiers for the purpose of protection. Thus, the Chamorro people have the dubious distinction of being the first group of Pacific Islanders to be colonized by the West.

In the course of a generation from 1668 to 1700, war and new diseases had reduced the population of the Marianas to a few thousand natives. Estimates of the pre contact population have ranged as high as

as a unit in the Spanish Empire until the Spanish-American War in 1898. During most of Spanish rule over the Marianas, only the islands of Guam and Rota were inhabited. The natives had been concentrated on those two islands to make them more manageable. Saipan was eventually re-populated in the latter part of the 19th century with natives from Guam.

As a result of the Spanish occupation, the people endured many changes and eventually developed a hybrid culture by blending the ancient traditions with Roman Catholicism and the practices of the Hispanic world. However, there was never any doubt that the identity of the Chamorro people remained intact. They were distinct in language and manners, and despite Spanish efforts to the contrary, the people of the Marianas never thought of themselves as Spaniards or as a Hispanic group of people. In fact, one of Spain's last governors lamented the fact that despite over 200 years of Spanish rule, the natives remained very unlike the inhabitants of the rest of the Empire.

At the conclusion of Spanish rule, the Chamorros had remained an identifiable ethnic, cultural, and national group with historical roots to a time long before they were conquered by the Europeans. They defied the fact that they were the first Pacific Islanders to experience the pain of foreign domination.

This historical perspective is not presented to inspire one with the glory of the survival of a small, but proud group of people. This story is repeated in many parts of the world and is not unique in its plot nor its cast of characters. Rather, it is presented so that one may understand how the forces of colonialism may work on the psychology of an entire people. Without the opportunity to control the social institutions which they lived under, the Chamorro people were not merely subjected to the perspective of the outside world. They eventually internalized it. For many generations, the Chamorro people were told that to be Chamorro was to be inferior, ignorant, and backward. Moreover, they were advised by foreign historians and administrators with suspect motives, that the Chamorro people did not in fact exist. The people of Guam were told that the Chamorro had been erased from the face of the earth and, unfortunately, many of our people believed it.

Despite academic evidence to the contrary and, more importantly, despite the sheer tenacity of a group of people who continued to defiantly proclaim themselves to be Chamorro, many refuse to

acknowledge the existence of the Chamorro people. Some are beginning to harbor the suspicion that this denial of the existence of the Chamorro people is calculated to facilitate the denial of their inalienable rights. It has certainly made some of the past colonial practices regarding the insensitivity to Chamorro language and culture easier since some doubt was cast on the very existence of the Chamorro people.

The islands and the Chamorro people were divided after the Spanish-American War with Spain ceding Guam to the United States and selling the remainder of the island chain to Germany. Germany subsequently lost the Northern Marianas to Japan as a League of Nations Mandate as a result of World War I. The United States eventually occupied the Northern Marianas as part of the Trust Territory of the Pacific Islands subsequent to World War II.

Although the people were split apart by the fortunes of international politics, the Chamorros were a unified cultural and national group with many individuals having close relatives on the other side of the political boundary. The pre-World War II Naval Government of Guam recognized the identifiability of the Chamorro people repeatedly as did both the Japanese and American administrations of the Northern Marianas. The Chamorros were the legitimate heirs of the political destiny of the islands which they inhabited and even the most imperialistic nations in past history have recognized their distinct status and legitimate right to exist, albeit begrudgingly.

For Guam, political life under the U.S. umbrella meant uncertainty, neglect, and inattention to basic human and civil rights for most of the time since 1898. Guam languished under a Naval Government from 1898 to 1950, except for a three year occupation by Japanese forces during World War II. The status of Chamorros before World War II is best characterized by the Navy Department's Court Martial Order No. 1923 issued on April 30, 1923. It read:

Held: While a native of Guam owns perpetual allegiance to the United States he is not a citizen thereof nor is he an alien and there are no provisions under which he may become a citizen of the United States by naturalization.

While this action gave the Chamorro people no particular status, it is still instructive. If nothing else, it recognized that the Chamorros were an identifiable group for political purposes. Decisions regarding the political status of Guam were obviously questions involving the future of the native inhabitants.

This concept had been made clear earlier in the treaty which ceded Guam to the United States. In the Treaty of Paris of 1898, the following provision applied to Guam:

The civil rights and political status of the native inhabitants of the territories hereby ceded to the United States shall be determined by the Congress.

Since 1898, the ultimate political status of Guam have yet to be decided either by Congressional action or otherwise.

During the course of naval rule over Guam, the U.S. relationship to the people of Guam was one of guardian to ward. This fiduciary relationship can be seen in the following comments drawn from various documents regarding Guam:

"The Secretary of the Navy will take such steps as are necessary to give the Territory of Guam necessary protection and government." [Presidential Executive Order No. 108A, 1899]

"As a result of the unique interest of the Navy in the island of Guam, the natives ... have been considered wards of the Navy The inhabitants of the island have been under the special and sole protection of the Navy Department." [H.R. Report No. 1125; letter from Acting Secretary of the Navy H. Struve Hensel to Speaker Sam Rayburn, June 9, 1945]

"The general policy of the Naval Government is to guard (the inhabitants of Guam) from exploitation by outsiders and to protect their lands They are not self-supporting and require not only federal economic assistance but also careful training and supervision from their paternal island government. [Letter of Secretary of the Navy Claude Swanson to U.S.

It is clear from these documents that the U.S. recognized their obligations to the people of Guam as a dependent people. Moreover, it is also rather obvious that the terms inhabitants of Guam, people of Guam, natives of Guam, and the Chamorro people are all synonymous. Both in official reports and in common usage, the people of Guam were the Chamorros and no one else.

Out of the ashes of World War II, the world was swept by new trends which recognized the sanctity of self-determination and which brought new meaning to the concept of human rights. Although these ideas have not always prevailed, many of them are embodied in the United Nations Charter, one of the legacies of World War II.

Both new nations and the old colonial powers recognized that dependent peoples should no longer be subjected to the whims of the nations which governed them. These new ideas gave birth to the Trusteeship system and the Declaration on Non Self-Governing Territories. Recognizing its responsibilities on the matter, the U.S. voluntarily placed Guam on the list of non self-governing territories in 1946. By Guam's continued presence on that list, the U.S. continues to recognize the existence of a dependent status for the people of Guam and acknowledges that self-determination has not yet been exercised.

In the United States' first annual report to the United Nations in 1946, the report describes the people of Guam in the following manner:

People - The natives of Guam are called Chamorros. The origin of the ancient Chamorros is obscure, but it is probable that they were a group that became detached and isolated in the Marianas Islands from the prot-Malays (sic) in their migration eastward from the mainland of Asia.

Later in the report, the U.S. states that the 1901 "Guamanian" population was 9,630 and that the 1946 Guamanian population was 22,698. The 1946 report further states that although the Guamanians are conversant in English, "they continue to use the ancient Chamorro tongue." It also lists the civil status of the "inhabitants of Guam" as nationals of the United States.

On the basis of this initial report by the U.S. to the United Nations, it is obvious that the people of Guam being discussed for the purpose of fulfilling the obligation under Article 73 are, in fact, the Chamorro people. The term Guamanian, which was invented after World War II, was and is synonymous with the term Chamorro in this context. Today, the common use of Guamanian as being an ethnic marker (as being identical with Chamorro) is still prevalent on Guam. Of even greater significance, the fiduciary status (readily acknowledged to exist under Naval Administration) had become the non self-governing status as described under Article 73. The United Nations Charter is a treaty, and as such, functions as law within the U.S. as provided for in the U.S. Constitution.

Part of the difficulty, of those who wish to pursue legalistic arguments, has been the term Guamanian. After World War II, the term Chamorro fell into disuse for official purposes and the term Guamanian was used instead. In recent years, the term Chamorro has become increasingly used for purposes of identification on Guam. However, the Federal Government still utilizes the term Guamanian as a national origin term for Chamorros. In the 1980 Federal Census, Guamanian was included as the term embodying those who are Chamorros (except for the North Marianas Chamorros). It is time that United Nations resolutions and United States reports make it clear what is meant by the term Guamanian people. From the historical record, it is obvious that it is the Chamorro people that are in a dependent status to the U.S.; and consequently, those who have not yet engaged in an act of self-determination.

The document which most clearly acknowledges the separate political existence of the Chamorro people is the Organic Act of 1950. When it was first passed by the U.S. Congress, it included a provision which gave Chamorros preference in government promotions and appointments. Aside from being further evidence of this fiduciary relationship, it gave legitimacy to the notion of special rights for the natives of Guam. It read:

The Governor ... in making appointments and promotions, preference shall be given to qualified persons of Guamanian ancestry. With a view to insuring the fullest participation of Guamanians in the Government of Guam, opportunities for higher education and inservice training facilities shall be provided to qualified persons of Guamanian ancestry.

In a more significant part of the Organic Act, the U.S. citizenship provision declared the people to be U.S. citizens according to two criteria. One required being native-born and the other required ancestry on Guam from before 1898. Failing that, it amended the Nationality Act of 1940 to include a new subparagraph "Guamanian and persons of Guamanian descent."

In the only Congressional Act that ever openly altered the political status of Guam, it is clear that it was on behalf of the Chamorro people that legislation was being passed. However, they were officially called the Guamanian people. It is instructive to note that despite the Organic Act, the U.S. continues to this day to submit reports on Guam to the United Nations in recognition of the fact that full self-determination has yet to be exercised. Indeed, how could such an assertion be made when the Organic Act originated in the halls of the United States Congress and was not even given the benefit of a perfunctory referendum.

Since 1950, both the preference and citizenship provisions have been repealed from the Organic Act without the knowledge or agreement of the people of Guam. However, this does not alter the reality that the Chamorros are a distinct national people with political legitimacy to pursue self-determination.

Guam has changed significantly since 1950. The Chamorro proportion of the civilian population has continued to drop rapidly to the point where the natives are approximately 50% of the population. The fact that the U.S. Government controls entry into the territory from foreign nations through its Immigration and Naturalization Service and allows free access to and from the United States through so-called rights of U.S. citizens to travel freely within U.S. borders, has contributed to this reality. Moreover, the application of U.S. Supreme Court decisions regarding residency for voting has meant that any U.S. citizen can come to vote in any Guam election as soon as they get off the plane.

Historically, many United States citizens came to Guam as a result of military activities and decided to stay. The military also employed large numbers of Filipinos and other aliens in constructing the numerous military bases built after World War II. Huge camps of foreign workers and the application of U.S. immigration laws to Guam has meant a continual stream of immigrants which threatens to make Chamorros strangers in

their own land. Many of the newcomers to Guam have made fine contributions to the island and have lived in peace and harmony with the Chamorro people. They are to be accorded the respect and dignity which people all over the world deserve by being a fellow human being. However, the Chamorro right to determine Guam's political destiny must be recognized, as long as the Chamorro people have not exercised their option, Guam's ultimate status has yet to be determined. An inalienable right to self-determination has yet to be exercised fully on Guam because the people of Guam (the Chamorro people) have been denied their rights in the past. Immigrant citizens, United States citizens from Wisconsin or Georgia have no right to self-determination of Guam. It is illogical and unfair to allow them to move to Guam and participate in Guam's self-determination because the Chamorro people have yet to exercise their own self-determination.

One of the greatest ironies of history in the Pacific is the fact that the United States has allowed other Chamorros to exercise their right to self-determination while Guam's Chamorros wait. The Northern Marianas have now become a U.S. Commonwealth. It is problematic whether the United Nations will ever receive a report from the United States on their political, social, and economic progress once the Trusteeship of the Pacific is finally dissolved. If the U.S. decides not to submit any reports, they may have legal justification. The people of the Northern Marianas have decided in legally binding plebiscites what their fate will ultimately be. In their elections, only the natives of the Marianas were allowed to vote. It is a tragic irony indeed that due to the misfortunes of colonial power politics, one set of Chamorros exercised their right to self-determination whereas the Chamorros of Guam may be swallowed up in some other process. The greatest irony of all is that both groups of Chamorros were administered by the same nation.

This information regarding the history of the Chamorro people is given not just for the purpose of providing a historical framework. It is an important component of OPIR's beliefs regarding the right to self-determination. The Organization of People for Indigenous Rights believes that the concept of "self-determination" belongs to people who have a special historical relationship to a given area. It is crucial for the powers that be to recognize that people have the right to self-determination, not pieces of land. Land enters the picture when it can be determined through reasonable interpretation of historical factors that a given group of people have a special claim to the area in question. For the sake of clarification, it is pure folly to say that Wake Island has the

right to self-determination because it is a dependency of the United States and its status is unclear. Wake Island has no inhabitants, no individuals with a special relationship to the island and no history, because it has no people to remember it. All of the individuals who currently live on Wake are there because of American ownership and sovereignty, not in spite of it. This was clearly acknowledged in President Carter's U.S. Interagency Policy Task Force. It read:

Also excluded are those islands over which the United States exercise sovereignty, but which have no native populations, e.g. Palmyra, Wake, Midway. They are "territories" as a matter of law, but they represent no policy problems of the sort dealt with herein.

II. Efforts to Exercise Guam's Political Self-Determination

Since the passage of the Organic Act in 1950, the U. S. as the administering power of Guam as a non self-governing territory, has not taken any major steps towards the resolution of the question of self-determination for Guam. Instead, it has been curiously cautious and only under the Carter Administration has there been an attempt to draft a comprehensive policy statement on the political status of America's off-shore territories. However, even this commitment to self-determination was limited. In Carter's message to the U. S. Congress on February 14, 1980, the former President stated:

In keeping with our fundamental policy of self-determination, all options for political development should be open to the people of the insular territories as long as their choices are implemented when economically feasible and in a manner that does not compromise the national security of the United States.

The United States has taken three steps which affect the political development of the island, but do not directly address the question of political status and self-determination. These were the granting of elective governorship in 1968, the creation of the non-voting Guam delegate to the U. S. Congress in 1972, and the authorization given to the island to write a constitution in 1977. The latter step had an Enabling Act (P.L. 94-584) which narrowly defined the powers that a Guam Constitutional Convention had. Among the many restrictions that the

U.S. placed were the recognition of U. S. sovereignty and the establishment of a three branch system of government patterned after the American model. A Constitution drafted under such restrictions, even if approved by the people, could hardly be called an exercise in self-determination.

The United States has not taken any major steps towards legally recognizing Guam's inherent right to self-determination nor has it encouraged the political status process. Instead, it has been the Government of Guam which has taken significant steps toward the resolution of political status and the exercise of self-determination. Spurred on by political developments in the surrounding islands, the Guam Legislature established the first Political Status Commission in April 1973. In P. L. 12-17, the Guam Legislature took it upon itself to state that various alternatives were available to Guam, including incorporated territory, statehood, independent affiliation with another nation, commonwealth and disassociated free state. The Guam Legislature appropriated \$150,000 from Government of Guam operating revenues to carry out the task of investigating the status question.

During the course of their efforts, the first Political Status Commission under the direction of Guam Senator Frank Lujan issued numerous bulletins which discussed the denial of self-determination to the Guamanian people. Placed within an historical framework, this could have meant only the Chamorro people. In one of Senator Lujan's articles, he urged that the granting of U. S. citizenship "has merely served to deny us the right to draft our own constitution by subjecting us to the provisions of the U. S. Constitution and the sovereignty of the U. S. Congress."

One year later, the Guam Legislature passed the first of numerous resolutions regarding political status and self-determination. Resolution 326 made special mention of the Special Committee of 24 on Decolonization and United Nations Resolution 1514 of December 14, 1960. The resolution not only extended the Legislature's support to the Special Committee's report on Guam in 1974, it requested the U. S. Government to allow the United Nations to come to Guam for the purpose of establishing dialogue on the issue of political status.

In the 13th Guam Legislature, the Political Status Commission was restructured to reflect the Legislature's new membership. Acting again on its own, the Government of Guam authorized a referendum to

accompany the primary election in September 1976. The results were not binding on anyone and since the U. S. did not authorize it, as the administering power, it was not obligated to respond in any fashion. Furthermore, the United States ignored numerous requests from Government of Guam officials to discuss and negotiate the question of political status.

Instead, Congress authorized the development of the Guam Constitution under the provision of a narrow Enabling Act. In the bitter debate over the ratification of the proposed Constitution, it became clear that the opponents wanted a resolution of the political status question. After the sound defeat of the document by a 5-1 margin, the President of the Constitutional Convention, Carl Gutierrez, acknowledged that the status question led to the document's defeat. Governor Paul Calvo proclaimed that the defeat indicated that the people are "ready to consider our status with the United States."

In response to the mandate to fulfill the promise of self-determination, the **Interagency Policy Review of U.S. Territories and the Trust Territory** was issued in 1979. Interestingly, the Report acknowledged the applicability of the U.N. Charter to the U. S. Territories in terms of the right to self-determination. However, while acknowledging the U. S. responsibilities to its dependent peoples, it studiously avoided advocating binding plebiscites and instead offered only the possibility of discussion. Moreover, it seemed to foreclose the possibilities of statehood (full integration into the American system) and independence. In relationship to the latter, the Report read that "independence, at least for Guam, would be so disadvantageous to the United States as to raise the possibility of U. S. resistance."

As the issue of self-determination became more serious, the question of whose self-determination was at stake became similarly serious. A **Pacific Daily News** Editorial on October 2, 1979 asked the question, "who are the people of Guam?" Although the answer for purposes of self-determination was hinted at, it refused to take a clear stand. At least the question had surfaced openly. Continual in-migration in the 70s had made the issue important, but volatile.

It was in this situation that the latest step to resolve the issue of self-determination was engaged in by the Government of Guam. In 1980, the local legislature's P. L. 15-128 established the Commission

Bamba and appropriated \$150,000 towards Commission operations. Although there are doubts about the value of the strategy advocated in the law for the resolution of Guam's political status, it represents yet another attempt by the Government of Guam to take unilateral action.

In the Commission's first meeting in 1980, one of the members, Senator Richard Taitano, asked about the right of the Chamorro people to determine their fate. The other members were not ready to take up the question and Senator Taitano refused to attend any other meetings in protest. As a former Director of the Office of Territories in the U.S. Department of Interior in the early 60s, Senator Taitano was well acquainted with the issue of self-determination.

The Commission on Self-Determination avoided the question of Chamorro self-determination until May 21, 1981 when it was openly discussed at a Commission meeting. Two of the task forces developed under the aegis of the Commission recommended that the law regarding self-determination be clearly specific in its definition of the people of Guam. Despite the fact that some opponents ridiculed the subject, it became clear that the right to self-determination was becoming a major issue in its own right, occasionally dwarfing the particular options which the planned "plebiscite" was offering.

In village meeting after village meeting, forceful advocates of the Chamorro right to self-determination presented their case. Eventually, the Commission on Self-Determination recommended to the Guam Legislature on November 12, 1982 that the "indigenous rights to self-determination" be recognized. However, because of the political risks of such a position in the election for governorship and legislative seats in 1982, the very same politicians who supported the Chamorro right to self-determination began to soft-pedal their stance immediately after.

Even the **Pacific Daily News** which was suspicious in the beginning began to understand the issue in an historic framework. On November 18, 1981, editor Joe Murphy wrote, "Each people should, in my opinion, have a chance to vote for their own self-determination. The Guamanian people have never had that chance. The U. S. moved into Guam with the USS *Charleston*, a gang of cannon, and some Marines and physically took the island. That takeover was endorsed later by the Treaty of Paris. The island people have never had an opportunity to vote for self-determination, or to be Americans." From the island's only

daily newspaper, the social definition of Guamanian is obvious. It means the Chamorro people.

The bill to recognize the right of the Chamorro people to self-determination died for lack of majority support in the Guam Legislature's Committee on Criminal Justice on January 19, 1982 a scant eleven days prior to the scheduled "plebiscite." The following day, attempts to bring the bill to the floor proved futile. The Organization of People for Indigenous Rights filed motions in the Superior Court of Guam and U. S. District Court in order to postpone the election. Interestingly, the Courts refused the motion for legal technicalities. OPI-R's attorney argued that the "plebiscite" was not binding since it was not authorized by the U. S. Congress, the body which has U. S. Constitutional jurisdiction over American territories.

The election occurred on January 30, 1982 and only 37.2% of the registered voters participated. In OPI-R's opinion, two factors contributed to this low turnout in an area which always brings out 80% of the electorate in elections. The first was the general confusion about the political status options which was prevalent among the population and the second was the indigenous right to self-determination issue. Although there was no organized boycott of the election, it was clear that the people wanted a firm decision on the right of the Chamorros to self-determination and needed further clarification of the political status options. The grassroots leaders of Guam, the village commissioners, attempted to make this clear to the Guam Legislature. Essentially the same statement was made by the Commissioners of Guam to the United Nations. It was signed by all but one of the village commissioners.

On September 4, 1982, a run off vote between Statehood and Commonwealth, the top two status choices, was held in conjunction with the local government's primary election. Commonwealth was the status chosen. And, like the previous election, any registered U. S. citizen was allowed to vote including the U. S. military.

A new Commission on Self-Determination was created in January 1984. During the time of its creation, OPI-R repeatedly protested in letters and testimony against this process, fearful that if continued, it would ultimately result in its being viewed as fulfilling the Chamorro right to self-determination and subsequently removing Guam from the United Nations list of Non Self-Governing Territories.

In a letter dated May 9, 1984 to the latest Commission, OPI-R stated:

Although we would prefer that the Commission concentrate on changing Guam's status to one considered as having a full-measure of self-government based on the Chamorro people's right to self-determination, we realize the immediate necessity of lifting the federal restraints which bind our economic development, and therefore will support a Territorial-Federal Relations Act to replace the present Organic Act. However, we would not support one which did not contain these two items: (1) a reaffirmation of the Chamorro people's inalienable right to self-determination, and (2) an identified date within the Act for a self-determination plebiscite.

The Organization of People for Indigenous Rights continue to monitor the Commission meetings providing input to protect the inalienable right of the Chamorro people. The fruition of OPI-R's efforts as well as the wisdom exercised by various Commission members to recognize Chamorro self-determination can be seen in Section 103 of the draft Commonwealth Act. This section along with the Preamble recognizes officially the Chamorro people as a political entity wielding power and influence over the status process. Article I, Section 103a of the draft Commonwealth Act states:

The Congress recognizes that the indigenous Chamorro people of Guam, who are all those born on Guam before August 1, 1950, and their descendants, accept Commonwealth under United States sovereignty. The Congress further recognizes that Commonwealth does not limit the pursuit by the Chamorro people of any ultimate status which they may seek in their progress toward fulfillment of their inherent right of self-determination as expressed in Article 73 of the Charter of the United Nations and in United Nations Resolution 1514.

However, OPI-R expressed concern that the article as written is contradictory and that the statement is not as strong as it could be. Moreover, it does not set a timetable nor does it use a politically

defensible definition for Chamorros. The Chamorro people were those people who became citizens by virtue of the Organic Act not necessarily those who were born on Guam before August 1, 1950. The Organic Act gave citizenship to everyone with ancestry to 1898. The pursuit of an ultimate political status is legitimately, morally, and legally the sole quest of the Chamorro people.

Throughout this process, the U. S. Government has not acted decisively. Officials of the Department of Interior have not recommended that U. S. Congress pass legislation on the self-determination question for the people of Guam. Instead, they have written letters and made statements which say that the people of Guam will be listened to. A good example of federal insincerity on the issue was the January 1982 visit to Guam by Pedro San Juan, Interior's Officer for Territories. San Juan stated that the Reagan Administration will do its best to support Guam in its status choice. He also assured the public that he would look into the possibility of securing federal funds for the self-determination process. In reference to indigenous rights, he told OPI-R members that he would request the U. S. Department of State to look into the question. To date, none of those have occurred. Furthermore, statements heavily criticizing the draft Commonwealth Act have been made by various members of the U. S. Committee on Interior and Insular Affairs.

Guam delegate to the U. S. Congress, Antonio B. WonPat also introduced two resolutions in the House of Representatives. The first H. R. Con. Res. 172, reads:

Whereas the people of Guam have never freely chosen the form of their present association with the United States having been ceded to this country by the Spanish government in 1898; and

Whereas successive United States administrations since that time have continued to be publicly committed to the fundamental principle of self-determination for the people of Guam.

With the historical context set by the resolution, it is clear who the people of Guam are. The resolution's intent was to have the Congress take the "opportunity to reaffirm its commitment to respect and support the right of Guam to determine their own political future through a

peaceful, open and democratic process." This resolution and a second resolution [HR Con. Res. 114] introduced by WonPat died in Committee. The resolutions were essentially identical. A similar resolution was later introduced by Guam's delegate to the U. S. Congress, Vicente Blaz. However, HR Con. Res. 144 was not acted upon prior to closing of Congress and was not reintroduced in the next Congress.

This brief review of the steps taken to resolve the political status question indicates that the U. S. has not seriously lived up to its commitment to give the process legal legitimacy within the Constitutional framework of the U. S. system. Moreover, as the population of Guam continues to be altered under current federal laws and regulations, the issue of Chamorro self-determination becomes more urgent.

A fiduciary relationship exists between the dependent people and the administering authority. The dependent people of Guam need the cooperation of the U. S. to exercise their inalienable right to self-determination. It is unrealistic and a violation of the obligations outlined under Article 73 to expect a dependent people to unilaterally engage in self-determination without the support of their administering power. Yet this is precisely the situation on Guam.

Since the first request by Delegate WonPat to President Nixon in the early 70s to discuss political status, the people of Guam through their elected representatives have asked for negotiations, consultations, or statements relative to the political self-determination of Guam. The Guam Legislature has passed numerous resolutions during the administrations of Presidents Nixon, Ford, Carter and Reagan relative to political self-determination. In return, the U. S. has acknowledged only the receipt of such documents, but has never made a firm commitment to get the process underway.

Until such time as the United States recognizes openly the right of Chamorro self-determination and engages in serious discussions of the topic, nothing can occur. The current draft Commonwealth process is not a legitimate exercise of self-determination and regardless of the passage or failure of this Act, the right of Chamorro self-determination exists. However, the overriding condition is the fact that the United States has not lived up to its responsibilities by recognizing legally, in accordance with its own Constitutional provisions, the Chamorro right to self-determination. Moreover, it has not educated the people on the

options available to them and has not assisted the process in a serious and concerned manner.

The U. S. may hide behind the logic that it does not wish to unduly interfere in the political status process on Guam. However, the reality is that the U. S. has Constitutional provisions for such an eventuality and the U. S. is obligated to facilitate the process by its own democratic ethos and signature to the United Nations Charter.

III. Obstacles to Chamorro Self-Determination and Some Solutions

The main impediments to the free and unfettered exercise of Chamorro self-determination are outlined in this section.

The most significant obstacle to the right of the Chamorro people to engage in an act of self-determination is the lack of seriousness attached to the question by the United States. Under the Treaty of Paris, and Article Four of the U. S. Constitution, the U. S. Congress has plenary power over the territories of the United States. The U.S.' legal jurisdiction on the issue is not in dispute. Rather, we can only hope that the United States exercise it by recognizing the right to self-determination of the people of Guam. In keeping with the provisions of the United Nations Charter, Article 73, such recognition should be specifically related to the people who are historically a non self-governing people. This cannot be interpreted in any reasonable fashion as meaning any other people than the Chamorros when discussing the case of Guam. This is based on documents and reports issued by the U. S. itself. To date, the United States has failed to take the political status process seriously by failing to legally recognize this inherent right in accordance with its own Constitutional provisions.

Part of the problem is that the island of Guam simply does not have enough presence in the psychology of American politics to require serious attention. Outside of the Pentagon, there are only a few people in Washington circles who are actively concerned about Guam's future. It is simply too small and too insignificant to worry about. Yet, it is precisely for these kind of reasons that the Non Self-Governing Territories system was organized. That review process is designed to give the small dependent people of the world an opportunity to be taken with greater seriousness.

In a publication titled, *The New Nations in the United Nations*, it says:

As a counterpoint of the trusteeship system, the Charter in Chapter XI embodied a commitment by the Members controlling non self-governing territories to 'accept as a sacred trust the obligation to promote to the utmost ... the well-being of the inhabitants of these territories.' Further, to achieve this goal these Members agreed to develop self-government, to assist in the progressive development of free political institutions, and to transmit regularly to the Secretary General information on the economic, social, and educational conditions in these territories.

As a signatory to the United Nations Charter, the United States' responsibilities are legally binding. In Article VI (cl.2) of the U. S. Constitution it states quite clearly: "... all Treaties made, or which shall be made under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding." The United Nations is a Treaty of Nations. However, despite the Treaty of Paris and the United Nations Charter, the Chamorro people remain in political limbo.

Of even greater significance is the presence of military bases on Guam. Guam's image to the world is not that of an island society struggling to survive as a political and social entity. Rather, it is tied to the overwhelming reality of the presence of the U. S. military in large numbers. While the United Nations has taken the stand that the presence of military bases should not be an impediment to the exercise of self-determination on Guam, any serious student of politics would recognize that it ultimately has a great deal of bearing on the question.

Approximately one-third of our island's current acreage is devoted to military purposes. Guam represents an especially important component of American's advance defense posture in the Pacific and extension of political and military influence in the region. Viewed from the U. S. point of view, it would be foolhardy to jeopardize all the current benefits which accrue to the nation's foreign and military policy for the sake of Chamorro self-determination. Even if the eventual outcome were sure to be favorable, such a risk would simply be unusual to take for

the sake of political principle. For example, the slim possibility of Guam's independence was categorically rejected on this basis by the report issued by the U.S. Interagency Policy Task Force in 1979 when it suggested that independence would be resisted by the United States. It was noted in the report that this was especially applicable to Guam's case because of its strategic location. Geography and international intrigue have played a cruel trick on the Chamorro people. By virtue of having been born on a strategic piece of property, the Chamorro people may be denied the freedom to decide their own political future.

As the administering power of Guam as a non self-governing territory, the United States has also contributed to the general state of confusion on Guam by failing in the past to advise the Chamorro people of their inherent right to self-determination. It has studiously avoided the question of any inherent or residual sovereignty on the part of the Chamorro people, by discussing self-government within the American political structure as if it were a foregone conclusion that the island must always be a part of the American political framework. Actions such as the Organic Act and the enabling legislation for the Guam Constitution of 1977 are indicators of this tendency. To behave legally in this fashion and then to make pronouncements to the world in its annual statements to the United Nations that Guam does have a right to full self-determination is clearly contradictory and confusing.

The people of Guam have never been apprised of their rights under the United Nations Charter nor has the U. S. Government made it abundantly clear what their obligations are. Consequently, all discussions of political status are clouded in a nexus of contradictory statements and anxiousness about the future. The end result has been a variety of unilateral actions on the part of the Government of Guam and entreaties to the Federal Government. The net result of this activity has been minimal. It is naive for anyone to assume that the Government of Guam can decide for itself the parameters of the political status process and then implement it without the open and active concurrence and support of the U. S. Government.

Some ideas as to how the process of Chamorro self-determination can finally be undertaken with the seriousness and concern that it deserves are given below. The rather haphazard treatment that Guam has received from the United States in the area of political status has led the Organization of People for Indigenous Rights to make statements at the United Nations. In OPI-R's opinion, the following steps are

necessary.

In view of the fact that full U. S. legal authority is needed to make the process a serious and solemn one, the United States must encourage the political status process in Guam and must:

Authorize and make legal a plebescite of self-determination in accordance with its treaty obligations by being a signator to the United Nations in accordance with U. S. Congressional plenary power over the territories as outlined in the U. S. Constitution.

In view of its failure to make clear to the people of Guam their inherent right to self-determination and inform them of their status options and United Nations statements on the issue, the United States must:

Fund and assist in conducting a thorough educational campaign on the available status options.

In view of the historical record of Guam, the establishment of a fiduciary relationship between the Chamorros and the United States, and the countless documents which indicate that the Guamanian people referred to as having a right to self-determination are in fact the Chamorro people, the U.S. must insure:

That all binding plebescites and referenda relative to the question of Guam's ultimate political status must recognize that it is the Chamorro people who have not yet engaged in self-determination and it is only they who shall be allowed to participate.

No political status of Guam which does not proceed from an act of self-determination by the Chamorro people alone is valid. Chamorro self-determination is neither an idle point nor do we make the point contentiously. It is part of a growing awakening in Guam that will not be stilled.

In sosohyo' todo manChamorro para ufan dana' guini gi glnagagao-ta para uma rekoknisa i derecho-ta. Debe di ta fan mana'e chansa para ta detitmlna gi kabales na manera hafa i destinon i tano'-ta.

"Isaona i tumungo' ya hasedi ki eyu mismo i umisagui ha." This is an old Chamorro proverb which says that "Greater is the fault on he who allows the injustice upon himself."

THOUGHTS AND CONFESSIONS OF A CHAMORRO ADVOCATE

Chris Perez Howard

Introspection about any issue requires not only analysis and cogent, rational arguments, but subjective statements and creative energy. Indigenous rights and the future of the Chamorro people are emotional issues which call forth sentiments that are deeply felt and highly personal. As a people, Chamorros can be sentimental and angry, yet they can look at any issue with a disarming sense of humor. In this section, the frustration, despair, hope, and humor of the Chamorro people are presented in an exposition of Chamorro poetry, a powerful statement on the development of an indigenous perspective, and an introspective essay on differing realities. (The Editors)

What happened to all the coconut trees, I thought, as Aunt Nari drove on the back road to Andersen. We were on our way to Yigo where she was going in order to give a donation for someone's wedding.

Only a few days before, I had returned to Guam after some 27 years and the Guam I remembered in my childhood had many tall, stately trees. The few I now saw were lifeless, some with nothing left but their trunks, and of the healthy ones, the majority were dwarf-like, full-grown but only five to six feet tall. It disturbed me somewhat, because I wanted to see the Guam of my youth, the island paradise I had proudly carried with me since my departure.

During the next few weeks, I discovered that the coconut tree remembrance was not the only memory that no longer held true, and after a time I came to realize that I was a stranger in my own homeland. Living with my aunt and uncle helped to ease the unhappiness I felt over this discovery but it also served to make me aware that I was different

from them and gave rise to a feeling that I really didn't belong among my own people.

In the months ahead, I became increasingly unhappy. In all honesty, the dissatisfaction I experienced was due not only to the fact that Guam was no longer the same and because I felt that I didn't belong among my own people, it was also because Guam and my people didn't measure up to the "American standards" I held. Because I was educated and raised in America, I expected certain advantages in Guam. I had actually expected to return to a beautiful yet backward Guam, where I would take possession of my birthright, and armed with my American education take full advantage of opportunities I envisioned existed. Instead what I found was an island and its people mirroring my own situation, and because I was both a Chamorro and a stateside American, I didn't identify fully with either, nor could I reconcile the two.

I don't know what brought me back to Guam. Perhaps it was because I had exhausted all my possibilities in the states or because I was still searching to find myself. Maybe it was just fate, I don't know. In any case, I was on Guam, stuck in the Western Pacific, a returned native son who didn't like what he saw and didn't know who he was.

By my second year, I had settled somewhat amicably in my new environment finding it easier to accept what was, and not question what wasn't. But as time passed and I met more relatives and family friends I was forced to leave the comfort I found in superficiality. I became acutely aware of my shortcomings and began to suffer embarrassment. Not only did I not speak the language, I had little knowledge of the island, its history, and culture. Above all else, however, was that I could not remember my mother, through whose identity I called myself Chamorro.

All I knew of my mother was from the few photographs I had of her and from what people had told me. Frankly, I hadn't wanted to know anything more because I knew she had been killed by the Japanese during World War II and I didn't want to dwell on it. I am one of those who shy away from unpleasanties and what could be more unpleasant than to think of the death of one's own mother? Now that I was living on Guam, however, among relatives and friends who knew her, I could not continue to leave her with the past. After a time, I got used to hearing about her and speaking of her. In time, I actually began to use her as a crutch to shore up my own lack of identity. The more I used her identity,

however, the more I needed to know more about her and soon I was asking questions and delving into the history of Guam, particularly, the war years.

Unbeknownst to me at that time, was that along with the information I was acquiring in my search for identity, I was also learning about Guam's relationship with the United States. What I eventually came to know is that the relationship was one of guardian-to-ward and not the beautiful marriage of two peoples which I had so superficially held as true.

During the height of my research on the war years, I applied for and received a grant from the Guam Insular Arts Council to write a book on my mother's story. At that time I saw it as a simple but tragic love story. My father, a young U.S. sailor, comes to Guam and meets my mother, a beautiful island girl. They marry, have two children, a boy and a girl, and are leading an idyllic life when the Japanese invade the island. He is captured and sent to a prison camp in Japan and she struggles with her people to survive the occupation. Toward the end of the occupation, she is killed by the Japanese. He returns to Guam after the war, finds that she has been killed, and the story ends when he takes the children to live in America. Yet, as my research continued, the story became intensely more complex -- and intensely more tragic.

For example, in gathering information for my book, I learned that Japan had not paid war reparations to the people of Guam. I also became highly sensitive to the many atrocities the Japanese committed during the occupation and when I learned that Japanese "defense" ships were visiting Guam and were at Naval Station, I deeply resented their being here and picketed the ships with a sign reading "War Reparations for Guam."

Another example of the information I came upon is the following excerpt under the heading, "The Chamorros," from the book, **The Long, and the Short and the Tall**. It was written shortly after the war by an American soldier named Alvin Joseph.

"The jungle was very thick. It was quiet and ghostly. And it might have been my imagination, but there was a bad smell in the air. Suddenly we came to a clearing. There, spread out on the ground, were about forty bodies of young men. They had their legs drawn up against their chests and had their arms tied behind their backs. They lay in awkward positions -- on their sides and their stomachs, and on their knees -- like

swollen, purple lumps. And none of them had heads, they had all been decapitated. The heads lay like bowling balls all over the place ... There was a truck nearby with more bodies and lopped off heads in it. It looked as if the Japanese had been loading all the bodies and heads into the truck but had been frightened away and had left everything behind."

"At first," Young went on, "we thought they were Japanese soldiers killed by their own men in some sort of harikari business. But then, by the clothes, we knew they were young Chamorran men. There was one beheaded woman in the truck ... Before the bodies were buried, many of us visited the frightful scene and saw the victims of the Japanese atrocity. A Guamanian youth told us they were men who had been taken from the concentration camps, charged with being American spies."

In writing my book, I grew to love my mother and toward the end of this difficult undertaking, I discovered that I did, in fact, have an emotional memory of her. When I first began, it was relatively easy for me to write because it was about someone I didn't know, but as I became more involved with Mariquita, it became increasingly difficult for me to keep my emotions intact. One night, after having finished a writing stint, I was in the kitchen preparing to have something to eat when I started an argument with my friend, Addie. All of a sudden, I became angry, picked up the food laden frying pan and threw it on the floor. And then I burst into tears. All the emotions I had pent up had simply exploded. The person I was writing about was my mother! The enormity of the emotional revelation had unplugged a torrent of buried pain. I may not have remembered her in the ordinary sense, but I had an emotional memory of her and I was reminded that day that I had dearly loved and lost her.

It was at this period of time that I met Senator Cecilia Bamba and began to work with her on the issue of war reparation. War reparations are the compensation by a nation defeated in war for economic losses suffered by the victor or for crimes committed against individuals, payable in money, labor, goods, etc. Because the Chamorros were nationals of the United States at the time of the war, it was the responsibility of the U.S. to obtain war reparations for them. Yet, instead, the United States signed away the right of the Chamorros to war reparations in its Treaty of Peace with Japan. It is interesting to note, however, that the United States, itself, did offer some war damage claims to the Chamorro people. As an indication of what was paid, the Federal Government gave me \$1,528.89 for my mother.

The Chamorro people have forgiven the Japanese for the wrongs of their nation. But, they have not forgotten the parents who were killed, the sisters who were raped, the brothers who were beaten, the sufferings endured, and the possessions lost. Considering that war reparations is a form of apology, the Chamorro people are still awaiting that expression from Japan.

The issue of war reparations was the first of a number of Chamorro concerns which raised my consciousness as a Chamorro and in turn lead me to begin questioning the United States and eventually suffer a loss of pride in being American.

Shortly after Senator Bamba left office, she became the Executive Director of the Commission on Self-Determination and I applied for and got the position as her administrative assistant. Prior to that, aside from my writing, I was teaching part-time and attending graduate school at the University of Guam. I remember quite well a group discussion one afternoon with University Professors, Robert Underwood and Bernadita Dungca, on the subject of Chamorros and the possibility of Guam becoming an independent state. I became rather upset because Chamorros were being discussed independently of their status as Americans. Weren't we all Americans? And what would happen to people like myself who were only half Chamorro? I felt like I was being divided and didn't like it.

It was during the course of my time as administrative assistant of the Commission on Self-Determination that I came to terms with my identity. When the issue of limiting the vote to only the Chamorro people in the self-determination plebiscite surfaced, I was faced with the question of whether my right to vote was because I was an American or because I was a Chamorro.

I learned that self-determination was the right of a people to decide upon its own political status and form of government, without outside influence. I learned that a *people* meant all persons of a racial, national, religious or linguistic group, or group of persons with common traditional, historical, or cultural ties. I learned that whether or not one lived on Guam, U.S. citizens did not have the right to decide their own political status and form of government. And I came to understand that the right of self-determination belonged to the Chamorro people alone and that it was a right which transcends their status as U.S. citizens.

Yes, I was both an American and a Chamorro. But, I was an American through citizenship and a Chamorro through birth. In understanding this difference, I began to know myself. Now, looking back, I wonder how something so simple could have remained hidden from me for so long. I had actually seen my being American in much the same way as I now see myself as a Chamorro. I saw my being an American as a member of an ethnic group. Even when the understanding of this basic difference was so close at hand, I had just let it go by.

I recall a time I went to Mexico and how the Mexican people thought I was one of them. And I remember living in the United States and how many there thought I belonged elsewhere. I guess that I just didn't think about those things back then because it was easier not to think about them. And I understand now that I didn't have an identity problem growing up in the United States because I chose not to have an identity. The knowledge I gained in my search for information for my book, coupled with introspection, lead me to acquiring my Chamorro identity. Accepting it, and the comfort of knowing that I belonged among my mother's people, I began to see things from a perspective different than that which I had brought to Guam. I began to see things from the perspective of a colonized people and not from the viewpoint of the colonizer.

My time with the Commission on Self-Determination was a turning point in my life. Among the things that came to mind was the thought that self-determination of a people actually rests on a foundation of individual self-determination. For without individuals seeing themselves as bound together and forming one unit, the word *self-determination* is meaningless. It had been easy to label myself a Chamorro, but until I had knowledge of that which is Chamorro, I could not identify with other Chamorros.

After studying the issue of self-determination, there was no question in my mind that it was only the Chamorro people who had the right to vote in the political status plebiscite. It was a plebiscite to determine their future, and to allow others to vote was morally, as well as legally wrong. The reason that there was so much confusion over the issue was undoubtedly because there were few who understood the very meaning of the word *self-determination*. At fault was the United States, who as a treaty member of the United Nations, has the administrative authority over the Chamorros and the responsibility to inform and educate them on that right. Additionally, the U.S. failed to

appraise other U.S. citizens coming to Guam, including the sizable military population, of this Chamorro right. To compound matters, the media on Guam being owned by non-Chamorros, found it more in their interest to report on the confusion, rather than the right itself.

When the Commission determined that the voting should be limited to the Chamorro people and sent their recommendation to the Guam Legislature, I was elated. A public hearing was held and there was overwhelming support of the Commission's decision. But the legislative committee charged with bringing this matter to the floor, chose instead not to act on it, and the question of limiting the vote to the Chamorro people was answered by their silence -- any qualified U.S. citizen could vote.

The outcome caused me to lose respect for my fellow Chamorros in the Legislature, who should have stood up for the principle of self-determination and this right of their people. The only explanation I could come up with for their action was, that they were afraid that if they supported limiting the vote in the plebiscite to Chamorros, they would in turn lose votes of non-Chamorros in the upcoming primary election.

During the height of the controversy, a number of us concerned with the self-determination issue met and subsequently founded the Organization of People for Indigenous Rights, (OPI-R).

Since that time, our organization has been actively involved in promoting Chamorro self determination. Among our objectives has been to educate people on the meaning of self-determination and the process toward its fulfillment. Among our achievements to date is the inclusion of the Chamorro rights provisions in the present draft Commonwealth Act for Guam, especially, the provision which recognizes that the Act is *not* the result of Chamorro self-determination.

Aside from self-determination, many of our members are also actively involved in promoting and supporting other indigenous concerns, such as war reparations, land rights, historical preservation, control of immigration, and also the anti-nuclear movement.

For me, the motivating force behind such involvements may have been love for the Chamorro people, but the sustaining force is a love for humanity in general and a deeply held respect for equality and justice. In

Guam, I particularly hold in high regard those who support Chamorro concerns who are not themselves of Chamorro ancestry. They remind me of those in the United States who supported civil rights for the Blacks although they themselves weren't Black.

As I came to understand my Chamorro self, I also came to understand that the United States has taken unfair advantage over a defenseless people and through gifts have caused them to be complacent, and through promises have deceived them into believing that they would control their own destiny and homeland. I have always respected and honored the legacy of both my parents, but when I found out that one was taking unfair advantage over the other, it caused an imbalance in my thinking and prompted me to act in order to rectify the situation. Presently, I feel that my Chamorro half is dying at the hands of its American counterpart, and I cannot remain still.

The foundation of all Chamorro concerns is directly related to the Chamorro people's relationship with the government of the United States. Often referred to as Guam-U.S. relations or federal-territorial relations, this relationship between the Chamorro people and the government of the United States is founded on Spain selling the island and its people to the U.S. following its defeat in the Spanish-American War. Despite words to the contrary, the viewpoint of U.S. ownership over Guam and its people continues today, and this relationship can be readily pointed to as a living example of colonialism.

Why has the United States, so demonstrative in support of other peoples, chosen to ignore the rights of the Chamorros? Squarely put, it is because of its interest in Guam only as a strategic military location in this region of the Pacific.

In its present relationship with the U.S. Government, the Chamorros have often seen their initiatives of self-government and self-sufficiency struck down by the Federal Government. When federal needs oppose the needs of the Chamorro people, the Chamorros always manage to lose or end up with the short end of the stick. The U.S. seeks to maintain its absolute control over the Chamorros for the sake of its military interests. But why should American interests take precedence over Chamorro rights?

The following are some things to consider in regards to the Chamorro situation.

- The Government of Guam was created and is controlled by the U.S. Congress.

- The Chamorros did not vote to become U.S. citizens.

- Not all the provisions of the U.S. Constitution apply to Guam, including the Tenth Amendment, which limits federal power over states.

- One third of the land on Guam is controlled by the U.S. military. This includes the most scenic, the most agriculturally productive, and the largest fresh water resource in Micronesia.

- Economic control is in the hands of non-Chamorros.

- The media is controlled by non-Chamorros.

- Out of an estimated total population of some 120,000, approximately 24,000 are military personnel and their dependents.

- Any U.S. citizen is eligible to vote in Guam elections upon arrival.

- The U.S. controls entry into Guam. Presently the island has a population density per square mile some ten times greater than the population density per square mile in the United States.

- Despite all the military and other federal money coming to Guam, Guam has a lower real per capita income than any of the states.

What will be the fate of my people? Will we end up like the Native Hawaiian, the American Indian, and the Eskimo, or will we stand with dignity, holding our flag of self-determination?

It has been seven years since I returned home. I have come to love my island and that color which reflects my own. I have come to know my people and together we suffer the sadness of our past. And as I experience with them our present frustrations, I wonder if I have found my Chamorro identity only to lose it through American domination.

THE CONSCIOUSNESS OF GUAM AND THE MALADJUSTED PEOPLE

Robert A. Underwood

This essay cuts right to the core in its exploration of differing levels of consciousness and perspectives on reality. The author exposes the thought processes and hidden agenda which characterize a definition of reality that is as narrow as it is unyielding. The vision of the so-called "maladjusted" is, after all, what the alternative perspectives offered in this book are all about. (The Editors)

The problem of consciousness is an intricate one which covers a lot of variables, influences and processes. On the one hand, when we say a person has a certain consciousness, we usually mean that he has a certain view, a myopia, a particular way of observing reality. On the other hand, when we say that a person has a limited consciousness, we seem to indicate that individual has no other way of looking at things. On Guam, most of us have become victims of a limited consciousness. This problem of consciousness is particularly acute in our island society. Because of the strength of this myopia, this limited consciousness, we are pilloried as a group of people incessantly, without respite and seemingly with no hope of escape. We are used to viewing the relationship to the United States in certain ways. We view the development of the Chamorro people in a framework which denies them the right to be. We are forced to relate to each other as members of different ethnic and social groups as if we were not on Guam, but in a different world.

How these items come to play in our lives is the product of a number of processes which occur in our individual and collective lives. Most of them seem to be operating in isolation from each other. As a consequence our collective memories and thoughts come to see these processes as confirming a certain view of Guam, reaffirming our relations with each other, and proving the inevitable demise of the Chamorro people. We come to feel as if the processes are nudging us towards not

certain opinions, but certain "realities" with which we cannot argue. To deny them would be foolhardy and stupid. Moreover, we engage in a certain amount of self-flattery by convincing ourselves that we have come to recognize these realities on the strength of our own individual wisdom, our individual capacity to see things clearly. Since the processes at work are dissimilar, since they appear to operate in independent frameworks, we must be capable of interpreting the meaning from what is occurring in these discrete processes. We never become aware of the reality 'that we can come to no other conclusion', not because of our ability to see through things, but because of our inability to be aware of the processes which make us members of the limited consciousness.

This is not to suggest that this limited consciousness is generated by a few individuals willing to manipulate societies in given directions. These few individuals whom we frequently identify as possible conspirators against the best interests of a society (e.g. media managers and politicians) are frequently themselves the victims of this consciousness. They too are products of it and they will continue to be victimized by it and victimize others through their enormous power until they reach a point of awareness of the contradictions of life on Guam. These contradictions are conveniently dealt with in a variety of ways that separate the real issues from the artificial ones. The fake issues are then combined within the unique framework of a consciousness that enables them to ignore the duplicity inherent in their views, their prescriptions for society, and their operations in the society.

The terms for this state of unawareness of our humanness in the constructs of modern society are many. George Orwell's "double think," Herbert Marcuse's "happy consciousness", and Paulo Freire's "massification" or "adaptation" all describe a process by which people as organisms cease to be human. They accept society's prescriptions for life without recognizing them to be false, dehumanizing, or alienating. If the contradictions are at first apparent, a generalized consciousness will inevitably overcome these pangs of uneasiness and thus they will be able to be bought, and in turn sold, as reality in operation. While we may all subscribe to the belief that the Polish people have a right to self-determination we can all think of a thousand excuses why the Chamorro people do not share this same "inalienable" right. For those, in Freire's words, who wish to integrate with reality rather than adapt to it, there is the ultimate prescription of society. The integrative man becomes the maladjusted man.

Freire writes,

Integration with one's context, as distinguished from adaptation is a distinctively human activity. Integration results from the capacity to adapt oneself to reality plus the critical capacity to make choices and to transform that reality. To the extent that man loses his ability to make choices and is subjected to the choices of others, to the extent that his decisions are no longer his own because they result from external prescriptions, he is no longer integrated. Rather, he has adapted. He has "adjusted." Unpliant men, with a revolutionary spirit, are often termed "maladjusted."

Of course maladjusted individuals do not have to be dealt with. They are simply tolerated, occasionally recognized (to advertise the openness of an otherwise closed society) and are even treated well within institutions. If they respond in a positive fashion and to the institutions, they will no longer be seen as maladjusted, but as repentant, realistic, and as "having come to their senses." If they persist in being maladjusted (retain critical perspectives on society), they will be tolerated as one would a fool or a mentally-retarded individual.

This consciousness about the state of life and existence on Guam can thereby deal with its critics in an effective manner. It simply reduces them to a "disgruntled minority," a "vocal few", or "hot-headed nationalists." If this doesn't sufficiently portray them as maladjusted, some purveyors of this consciousness might engage in a little amateur psycho-analysis. These individuals are behaving in this manner because they have been hurt in their life. They have suffered individual slights. They are trying to mediate their own individual lives and are living out their fantasies. The unique message which this consciousness has been able to deliver consistently on Guam is that these individuals are inauthentic Chamorros attempting to prove to themselves as well as to others that they are in fact Chamorros.

These self-styled nationalists, pseudo-intellectual critics are not raising issues of social significance. How can they be when they are merely acting out in response to their maladjustedness in terms of their own personal identities. They are half-breeds, quarter breeds, Americanized Chamorros who are desperate in their attempts to overturn their present reality in the hopes of reaching a fantasized authentic state of Chamorro being. We must deal with these individuals

as maladjusted and thereby ignore what they are saying. We must recognize that their rantings, their ravings, even their well-constructed messages are merely the utterances of a maladjusted personality. In this manner, we can ignore the criticisms, in an aura of a superior consciousness. We (as members of the consciousness) are so alert, so understanding of the situation that we know where their statements are coming from, even if the individuals making them don't. We don't have to listen to the content. We can ignore the meaning of our own existence and deal with the lack of meaning in their existence.

This consciousness of Guam takes many forms and is fed by many sources. Since we are unaware of the consciousness which overtakes us we assume that the decisions, the opinions we make and form our truly our own. We become so convinced of this, that we sometimes fancy ourselves opinion-makers when we relate the state of consciousness to others, who are ready candidates for acceptance, by virtue of the fact that they too have undergone similar experiences. Upon acceptance by others, we mentally congratulate ourselves for being able to deliver "our" personal opinions in an effective, coherent manner. We thus become personal agents of the consciousness without recognizing it. We soon find ourselves talking about going to the "mainland", taking pride in "our" astronauts, and discussing the merits of "our" President as if it really mattered.

The consciousness about Guam, as purveyed in countless ways through "educational" activities, through the "mass" media and through elected "leaders", refuses to accept the dignity of the island, and most importantly, the value and worth of the Chamorro people. This consciousness mouths platitudes about Guam even contradictory ones and regularly assaults our senses. Our first response is to listen in disbelief, but we hear it so often (from haole newsmen who talk about "our" island when they would leave in an instant if the Chamorros ever figured out what was going on) that we eventually think we are wrong. Instead of recoiling at what we know to be insanity and insensitivity, we begin to doubt our own sanity and sensitivity. There are so many of them and they say it so often, they cannot be wrong. Our senses grow weaker, our perceptions hazier until we become numb. Pretty soon, we want to hear from "our" nation's capital, about the car accident near Fresno and another planeload of servicemen who have come, so it seems, for no other reason than to protect us, pay taxes into the island treasury, and hire us as maintenance men. Out of our numbness, we begin to re-awaken to a new state of reality, one in which we no longer recognize the contradictions of our life, but one in which we imagine

things to be confluent -- one item flowing into another in a never ending march towards bigger and better things. There is no hesitancy, there is no reflection, there is no focus of a grand design, only a telescopic (tunnel vision) view of a process which is fed into a consciousness.

In January 1983, a Guam senator tells people to vote for statehood because it will guarantee prosperity and bring 80,000 new residents to the island. Nobody bothers to ask who will enjoy the prosperity, if it is really to be had. Another senator says we cannot have a Chamorro self-determination vote because "What is a Chamorro anyways?". He is subsequently seen making the rounds in the school during Chamorro week, proclaiming to anyone who will listen that he is proud to be a Chamorro. Nobody asks "What is he anyways?" Instead, they give him a dish of kelaguen. These are not contradictions because we are making progress, we are marching to the tune of a consciousness which has been 80 years in the making. The tune does not have a regular beat. It doesn't even have a singer or musician to play it. It is in our head, and we just haven't realized the damage it has done. It continues to work on our beleaguered senses.

There are people who know and they are becoming more numerous. These maladjusted men and women, those who cannot find it in their hearts to adjust to the demise of their own people, are everywhere. Some while away their hours fishing and farming, ignoring, or pretending to ignore, the consciousness which will eventually kill them off. The consciousness has a way of viewing them so that the contradiction of raising pigs between two Japanese hotels can be resolved. These are people who do not have our consciousness. They are unconscious, apathetic, do not yet understand what will inevitably happen to them. What those in the consciousness do not know is that these people are all too aware of what will happen to them. These maladjusted individuals are alive, well, and are not held in bondage. They recognize their grim future, but unlike others, they do not wish to abandon their past. They wish to enjoy it, to postpone the onslaught of the consciousness, and ignore the bearers of progress and the good life for as long as they can physically hold out.

For the consciousness, these people are viewed with a mixture of contempt and condescending jealousy. For the time being, we will take pictures of them, draw paintings about them, package them, and advertise them. We will put them on our brochures and tell the world that they are Guam, the spirit of the island, the inhabitants of the packaged paradise. Only after the visitors get here will they find out that they have

been mislead. It makes no difference then, because the visitor will have already spent his money looking for the maladjusted ones.

There are other maladjusted people on the island -- young office workers, veterans, the elderly, and even some educated people who have avoided becoming "adjusted." Everyday, in some fashion they say no to the consciousness. They go to secret meetings, have secret conversations, engage in tirades during family parties, and bemoan their existence. The consciousness has a way of dealing with these people as well. They are bemoaners, brooders we are told. Their frenzied out pourings of grief are the origins of discontent that will hurt our march to progress. We shouldn't listen to them too carefully or they will destroy what we already have. Let us all keep our eyes on the process, ignore the grand design, pretend we do not recognize what is up ahead. These individuals are maladjusted, they are crazy, you must be careful around them because some are glib, some are quite smart.

The consciousness throws other issues in the way lest these maladjusted people infect the population with their vision, their perception, their recognition of reality. The maladjusted do not want to become more human, they are thrillseekers with suspect motives. When the maladjusted speak of Chamorro-ness, the need for Chamorros to defend themselves as a people and the necessity of relying on noone but yourself, they are really looking for personal power. They, despite the fact that they have no political organization, are always looking for political power. These sick individuals are negative minded cynics. They don't get with it, don't do anything constructive, or don't spend their days finding anything good about the destruction and the pollution of their people and island. They are bitter, they have sour tastes in their mouths for some inexplicable reason -- surely it can't be because they abhor the progress, the growth that the island has experienced, and continues to experience under the consciousness.

There is yet another clever way that the consciousness deals with the maladjusted of Guam -- these Chamorros who continue to struggle against the coming onslaught, the deluge of progress. When the consciousness tires of ignoring them or warning the public about the dangers that the maladjusted pose to progress, it sometimes decides to love them. But it is not the sincere love of one human to another. It is the love of a dehumanizer to an object of its efforts. The objects, the maladjusted ones, are known to be crazy, but perhaps, some members of the consciousness argue, we have made them to be that way. We are a little responsible for their sad state so we must love them. The love

comes from a spirit of pity. There are the sentiments of a wild driver that has run over a dog that has jumped out in front of his vehicle. While the dog lays there with his head to the side and his eyes firmly fixed on the driver who is now crouching over his victim, the driver feels pity. He establishes an instant bond with this creature, he feels sympathy and he scratches his head as he figures out what to do.

However, the driver and the consciousness feel no guilt, no respect for the creature. The creature is a beast, without understanding of the rules of the road, without knowledge of the game of civilization. After all, it jumped out on the road, did it not? Besides, it is an animal and has no brain but I still must do something. The condition he is in is partially my doing, says the driver, but there is no guilt involved. It is simply the recognition of having inflicted pain on others.

But dogs, like the maladjusted, do not respond if they are truly maladjusted. They snap at the first sight of the hand, if there is any energy left. If there is none, the will is still there but it is a secret will. Sometimes the consciousness recognizes it, but most often it doesn't. When the dog snaps, the driver thinks "ignorant fool, stupid creature, I'm trying to help you." In much the same way the consciousness that loves the maladjusted, recoils in disbelief when the maladjusted rejects his love.

The maladjusted sometimes falls prey to this love. In this case, the consciousness starts to weave its web carefully. The consciousness says that the horrible things that occurred in the past are only in the past, they cannot occur now because we all recognize that it was wrong, but after all it's over. Besides the consciousness had nothing personally to do with it. We are told that the sins of the past cannot be paid for by the present generation. It does no good to point out that the very success of those who today purvey the limited consciousness was made possible by the sins of the past. They don't see connections, but instead charge that only the maladjusted, warped mind could see a link between military land-taking and economic dependence on federal largesse, repression of the Chamorro language and the success of English language media, and the importation of cheap foreign labor and Chamorro out-migration.

The limited consciousness must not merely narrow our capacity to formulate concepts and generalizations, it must numb this most human activity. To draw conclusions, to recognize the relationships between the past and the present is a dangerous activity. In order to keep the

sane from engaging in such revolutionary activities, the limited consciousness separates the past from the present with the glib prescription that we must live for the future. It keeps us from having a collective memory from which we can understand the present and plan for the future. It tells us that past errors were committed by individuals who have long since gone, not institutions or nations which continue beyond the lives of individuals who work in them and for them. When things like out-migration and indicators of social degeneration are mentioned, we are told that these are not social trends caused by social institutions and policies, but a series of individual choices made by individual persons. The reason for 35,000 Chamorros being out of the homeland is because of 35,000 individual choices. It has nothing to do with the draft, the economic involution caused by military control of resources, the propagation of unrealistic images of life in America through the schools. To recognize the linkages is to be maladjusted to the present reality.

But still the maladjusted continue to argue, to point out, to offer non-cooperation, and to reject the artificial friendship of those who are liberal enough to recognize that there has been injustice. The hidden strength of the people lies with the maladjusted. They have been able to fend off powerful forces and once they are strong enough to demonstrate not that choices are ours to make, but that others have no right to put boundaries on our choices, the Chamorro people will again be free. Thank God for the maladjusted.

DARK EYES

Lisa Castro

Dark eyes proud
but oh so still
you let them come
you let them kill.

Too late now
they've come too far
they won't go back
they've left their scar.

Deaf to your words
dumb to your ways
you gave your past
for wasted days.

The spirit is strong
though loyalty weak
but hope lives on
for souls not meek.

SAYING NO

Robert A. Underwood

As I make the rounds on islands afar
I think about a distant star
The islands are threatened or so it seems
by Western ways and American jeans

The star of tradition beckons to me
To judge the present by what it sees
Guys in t-shirts and girls in pants
Are the victims of a Westernized trance

What can we do, what can we say
To respond to changes that seem to pay
The magnet of Guam and Hawaii is strong
And Micronesia will be there before too long

We can think of days that are already gone
And wallow in a tradition-bound song
But if we ignore the reality of today
The tradition will only bind us away

We must control, we must decide
To put America far aside
We must dream, we must believe
That ideas are also ours to conceive

The star of tradition holds a sweet place
It reminds us that we have an islander face
The starlight also tells us one thing
That once we controlled as we were kings

Such lessons are good, but do not provide
The basis upon which we must decide
Our present, our future, and even beyond
Time elements to which we must respond

We must be firm, our resolve as strong
As the sennet that binds both short and long
That we can say no, that we will say no
Even when the risk appears low

To say no to things that are wrong
To say no to words that are strong
Is the first step towards self-determination
Without the lure of commercialized tension

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In this collection of readings, Chamorros have brought together their ideas and perspectives on various issues pertaining to their experience as a people. The common thread which binds the various contributions in this book together can be found not only in the fact that the authors and subjects are Chamorro, but also in the reality that all issues concerning Chamorro people can ultimately be resolved only through one process -- that of self-determination.

Life for any human, for any group of people, is meaningful only when one's own choices are made in a free environment. Land issues, reparations concerns, cultural expressions, and educational reforms for the Chamorro people really add up to self-determination. Without this process, there can be little else.

These readings not only bring to light the concerns surrounding self-determination but also serve to remind us that all activities of a colonized people must be directed towards liberation. And, that true liberation can only come when one takes action for oneself.

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