

Termy

CONSTITUTION OF THE NATIVE HAWAIIAN NATION

Preamble

- Aloha Aina

Article 1; 1

- Native Hawaii.

PREAMBLE

We, the indigenous peoples of Hawai'i, descendants of our ancestral lands from time immemorial, share a common national identity, culture, language, traditions, history, and ancestry. We are a people who Aloha Akua, Aloha 'Āina, and Aloha each other. We mālama all generations, from keiki to kupuna, including those who have passed on and those yet to come. We mālama our 'Āina and affirm our ancestral rights and Kuleana to all lands, waters, and resources of our islands and surrounding seas. We are united in our desire to cultivate the full expression of our traditions, customs, innovations, and beliefs of our living culture, while fostering the revitalization of 'Ōlelo Hawai'i, for we are a Nation that seeks Pono.

M.I. La

- Native Hawaiian

- Hawaii. Nation

- Kuleana

Honoring all those who have steadfastly upheld the self-determination of our people against adversity and injustice, we join together to affirm a government of, by, and for Native Hawaiian people to perpetuate a Pono government and promote the well-being of our people and the 'Āina that sustains us. We reaffirm the National Sovereignty of the Nation. We reserve all rights to Sovereignty and Self-determination, including the pursuit of independence. Our highest aspirations are set upon the promise of our unity and this Constitution.

UA MAU KE EA O KA 'ĀINA I KA PONO.

CHAPTER I - OF THE NATION

Article 1 - Territory and Land

- (1) The territory of the Native Hawaiian Nation is all lands, water, property, airspace, surface and subsurface rights, and other natural resources, belonging to, controlled by, and designated for conveyance to and for the Hawaiian Nation.
- (2) The Native Hawaiian people have never relinquished their claims to their national lands. To the maximum extent possible, the Government shall pursue the repatriation and return of the national lands, together with all rights, resources, and appurtenances associated with or appertaining to those lands, or other just compensation for lands lost.

Article 2 - Citizenship

- (1) A citizen of the Native Hawaiian Nation is any descendant of the aboriginal and indigenous people who, prior to 1778, occupied and exercised sovereignty in the Hawaiian Islands and is enrolled in the nation.

- (2) Citizenship in the Native Hawaiian Nation shall not affect one's citizenship in the United States.
- (3) All citizens that have attained the age of eighteen years are eligible to vote.

Article 3 - National and Official Languages

- (1) 'Ōlelo Hawai'i is the National language.
- (2) 'Ōlelo Hawai'i and English shall be official languages.
- (3) The Government shall respect the right of its citizenry to understand the actions and decisions of its Government, and endeavor to communicate effectively with the citizenry while supporting the national language.

CHAPTER II - DECLARATION OF RIGHTS

Article 4 - National Right to Self-Determination

The Nation has the right to self-determination, including but not limited to, the right to determine the political status of the Nation and freely pursue economic, social, cultural, and other endeavors.

Article 5 - Collective Rights

- (1) The Native Hawaiian people shall have the right to honor our ancestors; maintain, protect, and repatriate iwi kūpuna, funerary, and cultural objects; protect sacred places; and protect the knowledge and wisdom from traditional and customary sources.
- (2) The rights of Native Hawaiian tenants in the 'Āina (land, water, air, ancestor) and ahupua'a, shall not be abridged.
- (3) The Native Hawaiian people have the right to maintain, control, protect, and develop their intellectual property over cultural heritage, traditional knowledge, and traditional cultural expressions.

Article 6 - Rights of the Individual

- (1) No person shall be deprived of life, liberty, or property without due process of law.
- (2) All people shall be guaranteed equal protection of the law.

- (3) The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures shall not be violated and no warrants shall issue except upon probable cause, supported by oath and affirmation, and particularly describing the place to be searched and the persons or things to be seized.
- (4) No person shall be twice put in jeopardy for the same offense, nor be compelled to be a witness in a criminal case against himself or herself.
- (5) In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of not less than 12 jurors of his or her peers; to be informed of the nature and cause of the charges against him or her; to be confronted with the witnesses against him or her; to have a compulsory process for obtaining witnesses in his or her favor; to have assistance of counsel for defense at his or her own expense.
- (6) Every person is presumed innocent until proven guilty by law.
- (7) Bail shall be set by the judicial authorities and shall be available to all defendants, except where the granting of bail would constitute a danger to the community. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.
- (8) The writ of habeas corpus (of the body) shall be granted without delay and free of cost. The privilege of the writ of habeas corpus shall not be suspended.
- (9) There shall be no imprisonment for debt, except in cases of fraud.
- (10) No ex post facto law, nor any law impairing the obligation of contracts, shall be imposed.
- (11) Every citizen shall have the right to bear arms.
- (12) Citizens have a right to traditional medicines and to maintain their health practices, including the conservation of their vital medicinal and cultural plants, animals, and minerals.
- (13) Every child citizen has the right to parental care, or to family or appropriate alternative care, when removed from the family environment; to basic nutrition, shelter, basic health care services, and social services; and, to be protected from maltreatment, neglect, abuse, or degradation.
- (14) All persons have the right to be free from exposure from harmful substances used in warfare, nuclear power plants, and waste materials.

Article 7 - Customary Rights

- (1) The Native Hawaiian people reserve all rights and responsibilities customarily and traditionally exercised for subsistence, cultural, medicinal, and religious purposes.
- (2) The Native Hawaiian people have the right to manifest, practice, develop, and teach their spiritual and religious traditions, customs, and ceremonies.
- (3) Ola i ka wai, water is life; and the Native Hawaiian people shall exercise traditional and customary stewardship of water. The Nation shall protect, control, and regulate the use of water resources under its jurisdiction for the benefit of its people.
- (4) The Nation has a right, duty, and kuleana, both individually and collectively, to sustain the 'Āina (land, kai, wai, air) as an ancestor, source of mana, and source of life and well-being for present and future generations.

Article 8 - Government Prohibitions

The Government shall not:

- (1) Pass any law that abridges a citizen's right to make end of life decisions, be treated with dignity, and a humane death;
- (2) Take private property for public use without just compensation;
- (3) Make any law respecting the establishment of religion or prohibiting the free exercise thereof, or abridging the freedom of speech or of the press, or the right of the people to peaceably assemble; or
- (4) Make any law with the intent to suppress traditional Native Hawaiian religion or beliefs.

Article 9 - Reservation of Rights & Privileges

- (1) All rights, privileges, and powers not articulated in or pursuant to this Constitution shall be reserved in common to the citizens.
- (2) The Nation has the inherent power to establish the requirements for citizenship in the Nation. The Nation reserves the right to modify or change citizenship requirements solely through a constitutional amendment.
- (3) Any benefits accorded to the citizenry, by virtue of their status as citizens of the United States, shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation.

- (4) The rights of beneficiaries of private and other trusts, programs, or services shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation.
- (5) The rights of beneficiaries of the Hawaiian Homes Commission Act, 1920, as amended, shall not be diminished or impaired by the provisions of this Constitution or the laws of the Nation. The kuleana toward these beneficiaries is affirmed.

CHAPTER III - PURPOSE AND PRINCIPLES OF GOVERNMENT

Article 10 - Kuleana

- (1) The kuleana (right; responsibility; jurisdiction) of Government is to 'Āina (land; water; air; ancestor); citizens; and Ke Ao Hawai'i (All things Hawaiian).
- (2) The Government shall provide for the prudent stewardship of the 'Āina as the source of life and well-being, as expressed through the values reflected in the 'Ōlelo No'eau: He ali'i ka 'Āina, he kauā ke kanaka.
- (3) The Government shall provide for the prudent stewardship of water resources, as expressed through the values reflected in the 'Ōlelo No'eau: Ola i ka wai.
- (4) The primary purpose of Government is to meet the needs and priorities of its citizens, protect their rights, and care for the 'Āina.
- (5) The Government shall ensure the liberty of the citizens and groups of citizens to mālama kuleana and pursue happiness.
- (6) The National Government shall empower kuleana-based governance, and support home-rule and local governance.
- (7) The Government shall provide support to the citizens for housing, healthcare, food, and education.
- (8) The Government shall prioritize Hawaiian culture, history, language, traditions, customs, knowledge, and ancestral wisdom.
- (9) The Government shall pursue the repatriation and return of the national lands, together with all rights, resources, and appurtenances associated with or appertaining to those lands, or other just compensation for lands lost.
- (10) The Government shall ensure reasonable traditional and customary access to water on National lands.

- (11) The Government shall manage the Nation's assets in a fiscally responsible manner, balancing the needs of today with the needs of future generations.
- (12) The Government shall enact laws, create policies, and act in such a way that is resonant with and honors the traditions, customs, usage, and practices of the nation.
- (13) The Government shall protect and seek repatriation of iwi kūpuna, cultural objects, sacred places, and knowledge and wisdom from traditional and customary sources.
- (14) The Government shall seek repatriation of iwi kūpuna and cultural objects.
- (15) The National Government shall advocate for Native Hawaiian rights, services, trusts, and programs with other sovereigns, institutions, and organizations.
- (16) The Government shall focus on restorative justice principles that follow on the traditions of pu'uhonua, mālama, and ho'ōponopono.
- (17) The Government recognizes the rights of traditional and customary units of Native Hawaiian society, especially that of 'ohana.
- (18) The Government shall provide for a certification process to enable a group of citizens to assert their collective kuleana in service of the nation.
- (19) Consistent with the first right articulated by Ka Mō'i Kamehameha in the Kānāwai Māmalahoe, the Government shall promote the safety and security of all citizens and the Nation.

Kānāwai Māmalahoe - The Law of the Splintered Paddle:

E nā kānaka,
To my people,

E mālama 'oukou i ke akua
honor the divine

A e mālama ho'i ke kanaka nui a me kanaka iki;
And respect all people, great and humble

E hele ka 'elemakule, ka luahine, a me ke kama a moe i ke ala
Let the elderly and the child lay down by the roadside

'A'ohē meā nāna e ho'opilikia.

And let no one cause them harm.

Article 11 - Seat of Government

The Seat of Government shall be located in the Hawaiian Islands.

Article 12 - Rule of Law

The Government shall be bound by the Constitution, laws of the Nation, the customs of the Native Hawaiian people, and the rule of law.

Article 13 - Foreign Relations

- (1) The President shall have the power to conduct negotiations and enter into treaties, compacts, and other agreements with other sovereigns, political sub-divisions of such sovereigns, or other organizations and entities for the benefit of the Nation.
- (2) Treaties and compacts shall be subject to a two-thirds ratification by the Legislative Authority.

Memorandum any more Independence / Protected Dec.

Article 14 - Sovereign Immunity

The Nation and its Government possess sovereign immunity, which can only be waived in accordance with the law.

Article 15 - Appointments

- (1) Judicial Authority appointments by the President are subject to confirmation by simple majority of the Legislative Authority.
- (2) The President may appoint members of the Legislative Authority in the event of a vacancy; except that where more than two (2) years remain in the term, an election shall be held to fill the vacant seat.

Article 16 - Oath of Office

- (1) Every public official, before entering upon the kuleana of their respective office, shall take and subscribe to the following oath in either 'Ōlelo Hawai'i or English language: I do solemnly swear that I will faithfully support and defend the Constitution of the Nation, and conscientiously and impartially discharge my duties as _____ to the best of my abilities.

- (2) No person shall be compelled to take an oath or make an affirmation that is contrary to their religion or belief.

Article 17 - Removal From Office

- (1) Impeachment proceedings and removal of judicial appointments may be initiated by the President subject to a trial conducted by the Legislative Authority and two-thirds majority vote of the body.
- (2) The Legislative Authority may, following a trial to determine cause, impeach the President through two-thirds majority vote of the body.

Article 18 - Office Limitation

- (1) Public officials may not hold any other position within any branch of the Government, or within any other government, while holding an elected office.

Article 19 - Judicial Autonomy

The Legislative Authority may not diminish the Judicial budget, without the consent of the Judicial Authority, except where proportionate government-wide reductions are in effect.

Article 20 - Special Session

The President may call a special session of the Legislative Authority.

Article 21 - Moku Council

- (1) Within four (4) years of ratification of the Constitution, there shall be established within the Office of the President, a Moku Council with no less than nine (9) members.
- (2) The Moku Council shall advise the President on the needs of its respective districts, the delivery of relevant services to its districts, and on other decision-making that would benefit from the Moku Council's place-based expertise.
- (3) The President shall appoint one (1) representative from each district, until such time as the Moku Council shall recommend a statutory process of determining council membership.
- (4) The Moku Council shall elect, from among its members, a representative to serve in the Executive Cabinet.

Article 22 - Local Government

- (1) The Legislative Authority may create political subdivisions within the Nation and provide for the government thereof.
- (2) Each political subdivision shall have and exercise such powers as conferred under general laws.
- (3) Each political subdivision shall have the power to frame and adopt a charter for its own self-government within such limits and under such procedures as may be provided by general law.

Article 23 - Elections

- (1) The Vice President shall establish an Office of Citizenship and Elections whose responsibilities shall include, but not limited to, the following: (1) Enroll, manage, and maintain the list of citizens of the Hawaiian Nation; and (2) establish procedures for voting that includes residency, age, disqualification, and recall requirements.
- (2) The Office will establish and execute a process to enroll, create, and maintain a list of Nation citizens.
- (3) The Office will administer elections for the Legislative Authority and President and Vice-President, including procedures to demonstrate residency.
- (4) All citizens who have attained the age of eighteen (18) shall be allowed to vote for the seats associated with their permanent residency, where citizens may provide only one permanent residency. Kaho'olawe residency may be established by demonstrating at least four (4) consecutive years of stewardship to the island.
- (5) Citizens shall be automatically registered to vote upon reaching the age of eighteen (18), unless disqualified by law.
- (6) The Legislative Authority shall enact campaign finance laws on the financing of political candidates seeking public office. These laws shall include, but are not limited to: (1) ceiling limits on public funding by political entities; (2) public disclosure of contributions; (3) contribution limits; (4) corporate donation prohibitions; and (5) expenditure limits.

Article 24 - Recall of Elected Officials

All elected officials are subject to recall for cause, which may be initiated by signature of twenty-five (25) percent of the votes cast in the last election for that office. Any recall is subject to the majority vote of eligible votes cast for the respective office.

Article 25 - Statutory Initiative and Referendum

- (1) The Legislature may vote by two-thirds of the body to send questions directly to the citizenry through a ballot referendum.
- (2) The citizenry may, by petition signed by at least ten (10) percent of the number of voters in the last Executive election, place a statutory amendment on the ballot for direct vote.

Article 26 - Law Enactment

Bills passed by the Legislative Authority are subject to the veto of the President. In the case of a veto, the Legislative Authority may override the veto with two-thirds vote of the body.

CHAPTER IV - LEGISLATIVE AUTHORITY KULEANA

Article 27 - Legislative Power

- (1) The legislative power shall be vested in the Legislative Authority, which shall be unicameral and consist of Representatives.
- (2) The Legislative Authority shall have the power to pass legislation with regard to any matter.

Article 28 - Legislative Qualifications

- (1) Any person who is a citizen and has reached the age of eighteen (18) may be elected.
- (2) Representatives shall be citizens, eighteen (18) years of age, and reside in the district at the time of election, and for the duration of their time in office.

Article 29 - Term of Office for Representatives

Representatives shall be elected for four years; no Representative shall serve more than a total of twelve (12) years.

Article 30 - Legislative Elections

Representatives shall be elected by voters who have established residency in the respective district.

Article 31 - Representatives Count

- (1) The initial Legislative Authority shall be comprised of forty-three (43) land-based and population-based Representatives to be elected at-large from the legislative districts.
- (2) Following the first election, the individual districts shall create sub-districts for their district seats and stagger the terms of office.
- (4) Reapportionment may be done through constitutional amendment or convention.
- (5) Each Legislative district shall have the following number of Representatives based on the population of each district:

Hawai'i - 2;
Maui - 1;
Molokai - 1;
Lana'i - 1;
Kaho'olawe - 1;
O'ahu - 6;
Kaua'i 1;
Ni'ihau - 1;
Kahiki - 8.

- (6) Each legislative district shall also have the following number of Representatives based on the land for each district:

Hawai'i - 4;
Maui - 4;
Molokai - 2;
Lana'i - 1;
Kaho'olawe - 1;
O'ahu - 4;
Kaua'i - 4;
Ni'ihau - 1;
Kahiki - 0.

Article 32 - Representative Privilege

Members of the Legislative Authority shall be privileged from suit for any speech or debate spoken during assembly or in execution of their duties.

Article 33 - Legislative Calendar

The Legislative Authority shall establish a calendar in coordination with cultural protocols, which shall convene on January 17 of each year.

CHAPTER V - EXECUTIVE AUTHORITY KULEANA

Article 34 - Executive Power

- (1) The executive power shall be vested in the President, who shall execute the laws of the Nation.
- (2) The President may: Issue executive orders; prepare the national budget; receive resources, assets, or gifts on behalf of the Nation; recommend legislation; grant reprieves and pardons, except in cases of impeachment; and contract to effectuate the law.
- (3) The President shall have the authority to appoint all executive officials of the Nation, except elected officials or as otherwise provided by law.
- (4) The President shall pursue the acquisition of lands for the Nation to meet the needs and aspirations of the citizenry.
- (5) The President may establish Executive Departments that meet the needs of the Nation, with the priority to deliver services addressing disparate needs in the community.

Article 35 - Executive Elections

The President and Vice-President shall be elected in an election.

Article 36 - Qualifications of Executives

No person shall be eligible to hold the office of the President and Vice-President unless they have attained the age of thirty (30) years and have resided in the Hawaiian Islands for not less than ten (10) years immediately preceding the election.

Article 37 - Responsibility of the Vice-President

There shall be a Vice-President to serve in the Executive Cabinet who shall have the kuleana for the unique needs of the Kahiki citizenry and other responsibilities as assigned by the President.

Article 38 - Term of Office for Executives

The President and Vice-President shall be elected for a term of four years.

Article 39 - Line of Succession

In the event of vacancy, impeachment, death, resignation, or the absence of the President from the Nation, the Vice President will assume office of the President followed by other officials as prescribed by law.

Article 40 - Continuity of Governance

The President will maintain the immediate past President as a counselor to ensure continuity of governance.

Article 41 - The Executive Cabinet

- (1) The President shall convene an Executive Cabinet comprised of the Vice-President, one (1) representative from the [Cultural, Spiritual Hui], one (1) representative from the [Hui of the Royal Organizations], one (1) representative from the Moku Council, and the Heads of Executive Departments.
- (2) Heads of Executive Departments shall be nominated by the President, then presented to the Legislative Authority for confirmation or rejection by a simple majority.

Article 42 - The [Cultural, Spiritual Hui]

There shall be a [Cultural, Spiritual Hui], which shall elect within ninety (90) days of the election of a new President, by its own internal processes, a representative to serve in the Executive Cabinet.

Article 43 - The [Hui of Royal Organizations]

There shall be a [Hui of the Royal Organizations], which shall elect within ninety (90) days of the election of a new President, by its own internal processes, a representative to serve in the Executive Cabinet.

CHAPTER VI - JUDICIAL AUTHORITY KULEANA

Article 44 - Judicial Power

The judicial power shall be vested in the Judicial Authority.

Article 45 – Judicial Authority Qualifications

The President shall establish qualifications with the consent of the Legislative Authority for Justices and Judges.

Article 46 - Judicial Authority Primary Focus

The primary focus of the Judicial Authority shall be restorative justice.

Article 47 - Judicial Authority Structure

- (1) The Chief Justice is the head of the Judicial Authority and presides over the courts. The Chief Justice may establish courts, tribunals, offices, and forums of general or exclusive jurisdiction as prescribed by law, and may account for customary practices of the Native Hawaiian people.
- (2) The scope of judicial power shall encompass all cases, in law and equity, arising under this Constitution, the laws of the Nation, treaties, compacts, and agreements made, or which shall be made, under the Nation's authority.

Article 48 - Term of Office for Justices and Judges

- (1) The Judicial Authority shall consist of:
 - a) Not less than three (3) Justices with life-time appointments; and
 - b) Judges serving a term of no less than ten (10) years.
- (2) The Chief Justice is elected by an absolute majority of Justices.

CHAPTER VII – AMENDMENTS AND CONSTITUTIONAL CONVENTION

Article 49 – Amendments

- (1) Proposed amendments to this Constitution may be initiated by any of the following methods:
 - a) A resolution of the Legislative Authority adopted by two-thirds affirmative votes;
 - b) A valid petition submitted to the Legislative Authority signed by not less than fifteen (15) percent of the registered voters of the Nation in the last executive election; or

- c) A constitutional convention.
- (2) The Legislative Authority shall establish the format and rules for adopting amendments.

Article 50 - Constitutional Convention

- (1) A Constitutional Convention shall be held within four (4) years of the establishment of the Moku Council and appear as a ballot question for citizenry at least every ten (10) years after the Government's formation. The citizenry may, through a constitutional initiative, call for such a convention earlier.
- (2) The Legislative Authority shall establish the format and rules for convention participation with elected delegates from each legislative district.

CHAPTER VIII – RATIFICATION

Article 51 - Ratification

The present Constitution is subject to a ratification vote.

- (1) A ratification election shall be held for the purpose of ratifying this Constitution.
- (2) The Constitution shall become effective upon approval by a majority vote of individuals who are eligible to be citizens, have attained the age of eighteen (18), and cast a ballot in the ratification election.

FINAL