

# Native Hawaiian convention approves new constitution amid concerns of legitimacy

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The Native Hawaiian convention adopted a landmark constitution Friday that allows room for federal recognition by the U.S. government while holding out for the possibility of independence.

But a number of questions remain about the future of the proposed government, including when a ratification election will be held and who's going to pay for it.

What's more, establishing a government before President Barack Obama leaves office early next year could be next to impossible, leaving the question of federal recognition up to a new president who might not accept the idea.

The document, approved with an 88-30 vote plus one abstention, ends a four-week convention, or *aha*, that was envisioned by an act of the 2011 state Legislature and funded by the Office of Hawaiian Affairs.

The body, numbering more than 100 and meeting at the Royal Ha-

waiian Golf Club in Maunawili, also adopted a Declaration of Sovereignty that recounts the history of Native people since contact with Western civilization.

"This is a historic day," said Zurl Aki, a University of Hawaii law student from Mililani who skipped two midterm exams to join in the final debate and vote Thursday and Friday.

"I'm quite elated," said former state lawmaker Annelie Amaral, who also voted with the majority. "I didn't expect we would get a constitution adopted with such a short window of time. It's amazing. People settled down to work and wanted a solution."

The preamble to the "Constitution of the Native Hawaiian Nation" expresses the desire to preserve and sustain Native culture and traditions and "to promote the well-being of our people and the 'Aina that

*Please see AHA, A6*

# AHA

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sustains us" through a "Pono," or righteous, government "of, by and for Native Hawaiian people."

In a compromise to supporters of independence, the preamble contains hope for the possibility of achieving independence.

"We reaffirm the National Sovereignty of the Nation. We reserve all rights for Sovereignty and Self-determination, including the pursuit of independence," it says.

Under the constitution, citizens of the nation are any descendants of indigenous people who lived in Hawaii prior to 1778, or Western contact. It also says citizenship in the Native Hawaiian Nation shall not affect one's U.S. citizenship.

The government would be composed of an executive branch—led by a president and vice president and advised by an island council—a legislature with 43 members representing the islands and Native Hawaiians living elsewhere, as well as a judicial authority with justices, judges and courts.

OPPOSITIONERS of the aha charged that the event was predetermined to allow for federal recognition and, they said, turn Native Hawaiians into an Indian tribe so that the state could lay claim to 1.8 million acres of ceded lands, or crown lands.

But the newly adopted constitution says the government shall pursue the return of the national lands along with just compensation for lands lost.

## MORE FROM THE DOCUMENT

*Excerpts from the Constitution of the Native Hawaiian Nation:*

### From Chapter 1, Article 1

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.

### From Chapter 1, Article 2

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.

### From Chapter 2, Article 4

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.

### From Chapter 2, Article 7

1. The Native Hawaiian people reserve all rights and responsibilities customarily and traditionally exercised for subsistence, cultural, medicinal, and religious purposes.

### From Chapter 2, Article 8

*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.

### From Chapter 8, Article 51

*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.

Keli'i Akina, president and CEO of the Grassroot Institute of Hawaii, attempted to block the process in court, charging it with violating the U.S. Constitution by using public funds to establish a racially discriminatory process.

"The attempt to establish a single race-based nation violates the Aloha Spirit and goes against the will of the majority of Hawaiians," Akina said in an email. "Instead of wasting millions of public dollars on a divisive political movement, state government and Hawaiian leaders should use these financial resources to advance Hawaiians through

education, housing, commerce, and health care."

For members of the convention, the next step is taking the document to the people and then finding a way to hold an election for ratification.

"The real work now begins," OHA trustee Rowena Akana said.

Akana said she hopes to see hundreds of community meetings explaining the document.

But exactly when a ratification election will be held and who will pay for it remain up in the air. Members of the convention might have to campaign for private funding, some participants said.

Who is eligible to vote is also unclear. Some participants said only those who signed up for the Native Hawaiian Commission Roll are eligible, while others said the wording of the document allows for extending opportunity to those who didn't sign up.

"It's not perfect by any means," Akana said of the document. "It was the best we could do under the circumstances."

DELIBERATION on the final version of the constitution began Thursday afternoon and continued for most of Friday. During the two days there were emotional pleas as well as ap-

plause for impassioned speeches recounting the wrongs and injustices of the past and the overthrow of the Hawaiian monarchy.

Veteran independence advocate Poka Laenui and attorney Keoni Agard urged the convention to vote against the document, saying the unelected body lacks legitimate standing. "We can't continue to fool ourselves. The legitimacy is not there," Laenui said.

Laenui said the final version of the constitution holds some major shortcomings, including that historically the Hawaiian nation was not based on blood, but nationality.

"There are so many flaws in this document," agreed former OHA trustee Moani-keala Akaka of Hilo.

James Kimo Stowell of Oahu said it was shameful that participants would consider it an acceptable document.

"I'm sorry, it's just not good enough. It's poorly constructed and poorly designed in its creation. You should be ashamed of yourself," Stowell told the group.

But Molokai physician Noa Emmett Aluli called the document "good work" and certainly as good as any such document belonging

to other Pacific island nations, which he has been studying. "I'm very proud of it," he said.

Bruce Lambert, a Hawaiian living in Sweden, said "the alternate is status quo. That is not acceptable to me, and it is not acceptable for everyone in this room."

AT ONE POINT a motion to have the convention "accept" the document rather than adopt it failed.

Lanakila Mangauli, one of the high-profile leaders of the Mauna Kea "protectors," admitted to going into the process believing it wasn't pono and saying he was there to oppose anything less than unequivocal independence. But he ended up voting for it Friday, saying he was satisfied with the independence language in the preamble.

Other provisions of the constitution include protections for Hawaiian Homes beneficiaries, Native Hawaiian religion or beliefs and beneficiaries of private trusts.

"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," the document says.

Other provisions:

>> Legislative representatives shall be elected to four-year terms, with no one serving for more than 12 years.

>> The president must be at least 30 years old and have resided in the Hawaiian Islands for not less than 10 years immediately preceding election.