Na`i Aupuni

Poka Laenui, Delegate Candidate, O`ahu

86-641 Pu`uhulu Rd. Wai`anae 96792

[plaenui@hawaiianperspectives.org](mailto:plaenui@hawaiianperspectives.org)

(808)200-2682 (O), 729-4614 (C)

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Aloha Na`i Aupuni Convention participants:

I had the opportunity to present a brief history of the work of the Aha Hawai`i `Oiwi (AHO) in 10 minutes, with 5 minutes of answering questions. I present here a more extensive explanation of the work and history of the AHO for your understanding of what has preceded the current effort of presenting to the Hawaiian public options for the future.

## Aha Hawai`i `Oiwi

**1991**: State Legislature adopts a resolution recognizing the illegality of the overthrow of the Hawaiian Nation (HCR 147, 1991 Legislature) and calls for the formation of the Sovereignty Advisory Council (SAC) (Act 301) to develop a plan to discuss and study the sovereignty issue. SAC is formed through the appointment of the Legislature consisting of representatives of nine native Hawaiian organizations. The SAC reports to the legislature, providing the historical background of the overthrow, introduces American domestic as well as international law in its analysis, and calls for a process by which the native Hawaiians will be able to address the implications of this history to their contemporary situation.

It’s report recalls:

*In recent months, Senator Daniel Inouye has proposed an initial version of a bill he wishes to introduce by which the United States in 1993 will recognize a body of elected Hawaiians as the Hawaiian nation, and begin negotiations with that nation to determine its land base and to bring about its full restoration. The reason the Senator is so willing to help on the reestablishment of the Hawaiian nation is because the Bush administration is intent on doing away with all of the special rights of the Hawaiian people on the false grounds that since there never was a treaty with the Hawaiian people, Hawaiians are no different from any other Americans in the melting pot, and, according to the Constitution, can not be treated any differently. On November 28, 1990, President Bush wrote concerning the Hawaiian exemption from provisions relating to non-discrimination on the basis of race, "[The Hawaiian] race-based classification cannot be derived from the constitutional authority granted to the Congress and the executive branch to benefit native Americans as members of tribes." Because the U.S. does not recognize Hawaiians as a tribal nation, as it does Indian tribes, the President further wrote, "To ensure that the benefits of Federal programs are offered to individuals in a way consistent with the equal protection guarantee of the Constitution . . . I direct the Attorney General and the Secretary of Housing and Urban Development to prepare remedial legislation [so that provisions in all] Acts can be brought into compliance with the Constitution's requirements." (Nov. 28, /Administration of George Bush, 1990) Senator Inouye is urging Hawaiians to assert their sovereign nation status in order to win American recognition for their nation as a Native American nation and in this way protect their rights to the Hawaiian home lands and to other special treatment as the first people of these islands.*

Senator Chairperson of the Hawaiian Affairs Committee refused to entertain the report of the SAC, objecting to the suggestion in that report that the legitimacy of the Hawaii State government and of the U.S. presence in Hawaii is put into question.

**1993**: United States Congress adopts a resolution confessing to the participation of the U.S. representative to Hawaii in the illegal overthrow of the Hawaiian nation and apologizes to the native Hawaiian people for the actions of its representative. (Public Law 103-150)

**1993**: The State legislature forms (Act 359) the Hawaiian Sovereignty Advisory Commission (HSAC) consisting of a representative of OHA, Association of Hawaiian Civic Clubs, State Council of Hawaiian Homestead Associations, and Ka Lahui Hawaii. 50 Hawaiian organizations representing over 100,000 members nominated over 100 persons of which 20 were appointed by Governor John Waihe`e. The commission was charged with facilitating “the efforts of native Hawaiians to be governed by an indigenous sovereign nation of their own choosing.” HSAC convened in August 1993 and completed its report Feb. 18, 1994, meeting during that time on an average of once every 2 weeks. During its existence, the commission held a total of 36 public meeting throughout the Hawaiian community, including one in America. Meeting were held in Moloka`i, Kaua`i, Lana`i, Maui, Hawai`i, Oahu, and in Las Vegas, Nevada.

The commission’s final report was presented to representatives of 189 organizations on February 5, 1994 and overwhelmingly supported. The report called for a sovereignty plebiscite to be conducted posing a question of whether or not to elect delegates to propose a native Hawaiian nation. It also called for continuing education on sovereignty, moratorium on sales and exchange of ceded lands, and that HSAC should continue as the Hawaiian Sovereignty Elections Council. (HSEC)

**1994**: The State Legislature, responding to the HSAC report, forms the Hawaiian Sovereignty Elections Council (HSEC) as an independent body to carry out a fair and impartial process to determine the will of the Native Hawaiian people to restore a nation of their own choosing. This “Native Hawaiian Vote” process would be funded ½ by the State and ½ by OHA.

The ballot question asked “**Shall the Hawaiian people elect delegates to propose a Native Hawaiian government?”** 81,598 ballots were sent throughout the world in July 1996. August 15, 1996 was the deadline for returning ballots. Approximately 33,000 (40%) returned ballots, of which 30,783 (38%) returned valid, signed ballot envelopes. 30,423 yes and no ballots were counted. 22,294 (73.28%) voted YES and 8,129 (26.72%) voted NO.

Having completed its mandate, HSEC reported to the legislature its results. In its report, HSEC declared that it “***has made it very clear that the present Native Hawaiian Vote is not the exercise of self-determination as contemplated and safeguarded in international law, including those explicit statements of rights of non-self governing and colonial territories expressed in relevant articles of the United Nations Charter and its several resolutions and conventions.***

***“To overcome a mistaken belief in the international or the U.S. political community of the assumption that this is the Hawaiian’s full exercise of self-determination, HSEC has publicly disclaimed this plebiscite as an act of self-determination consistent with international law. That disclaimer had been submitted to the United Nations Working Group on Indigenous Populations at its 1995 and 1996 sessions. A similar disclaimer was stated on every ballot distributed to registered voters.***

“Eventually, it is anticipated, the debates at the Native Hawaiian Convention will indeed shed light on the broader question of external self-determination. That is a chapter of the Hawai`i story not yet opened by this Native Hawaiian Vote.”

**1999**: Native Hawaiian Convention (Aha Hawai`i `Oiwi) formed: HSEC was continued by the Legislature to carry out the process called for in the result of the Native Hawaiian Vote, i.e., the election of 97 Delegates to a Native Hawaiian Convention. Candidates ran from throughout Hawai`i and from America. Delegates from the various moku were elected and have held numerous and extensive meetings in various committees as well as in general assemblies. From our first meeting in July, 1999, work was immediately begun in organizing the delegates into a functional body. We adopted an organized structure, adopted by-laws, committees, and operating procedures. We developed subject matter committees on studying important elements to be put into constitutional forms - population, fixed territory, international relations, governance- as well as supportive committees to assist in the carrying out of our work in the public and among ourselves - education, rules/credentials/style, - and special committees. We organized in an executive committee consisting of our primary officers, Chairperson, two vice-chairs, 1 secretary, and one treasurer, an executive council which adds to island moku representatives and committee chairs. This Executive Committee has authority to function on behalf of the general body of delegates when the assembly is not able to meet. This Aha Hawai`i `Oiwi has produced two designs for expressing Native Hawaiian governance, an independence model and an integration model.

Due to funding limitations, the AHO has not been able to meet since 2006. The organization, Ha Hawaii which was formed as the administrative support, fundraising and accounting organization has subsequently dissolved. However, the AHO has refused to adjourn sine die.

**Native Hawaiian Coalition:**

**2004:** Beginning in 2004, through the instigation and generous funding of the Office of Hawaiian Affairs, individuals gathered, initially at the inter-island airline terminal, to form a coalition to develop native Hawaiian self governance. That gathering of individuals coming from many different places throughout Hawai`i as well as from America, were flown into Hawaii funded by OHA. Ground Transportation, meetings and meals, as well as lodging costs were provided. Rather than by election, the participants were whoever attended the meetings.

This Native Hawaiian Coalition was not able to organize itself other than to elect interim positions. It came across the disfavor of OHA and its financial support was terminated. It is now defunct, its membership unclear and generally based upon whoever appears at it’s next meeting. It has no elective base of legitimacy. It’s present direction is uncertain.

While its general mission is to assist in the development of a native Hawaiian form of governance, it does seem duplicative of that “ladder of development” beginning with the Sovereignty Advisory Council, the Hawaiian Sovereignty Advisory Commission, the Hawaiian Sovereignty Elections Council, and the Native Hawaiian Convention. Because it is not an elected body but whose membership is essentially, whoever shows up, its legitimacy as a representative voice of the people is questioned.

**Na`i Aupuni Congregation:**

On February 1, 2016, a gathering of approximately 150 individuals gathered at a private golf-course in Kailua, O`ahu, to discuss the production of a constitutive document(s) forming the revitalized Hawaiian nation. This body consists of candidates for delegate positions from various parts of Hawai`i and the world, of Native Hawaiian ancestry, each nominated by at minimum, 10 fellow Native Hawaiians whose names were enscribed on a number of Native Hawaiian rolls developed by OHA or other organizations over the years. The election of delegates were challenged in the Federal courts, losing at the district and circuit court levels, but able to obtain a temporary stay (of uncertain length) at the U.S. Supreme Court. The organizing body, Na`i Aupui changed course and announced that because of the uncertainty of the delay in the Supreme Court, it would cancel the count of the votes for the election of 40 delegates, and declare all candidates eligible to attend its gathering at the private golf-course, to engage in the effort of proceeding to the formation of governing documents.

Today, that gathering continues to meet, its outcome uncertain.

**ANALYSIS;**

Of the three efforts to organize the Native Hawaiians over the past quarter decade, there is only one entity which has received the ratification of its process by the Native Hawaiian people following broad consultation with these people. That is the Native Hawaiian Convention which first had the process ratified in the Native Hawaiian Vote of 1996, followed by an election process soon thereafter. That convention of elected delegates produced two drafts (not yet finalized) to be placed to the Native Hawaiian constituents - one calling for Independence and the other calling for Integration within the U.S..

The Native Hawaiian Coalition had no legitimate basis of being representative of the Native Hawaiian people as it was merely several gatherings called and financed by the Office of Hawaiian Affairs, It has produced nothing as a result of its gatherings.

Na`i Aupuni congregation is simply a gathering of people who had intended to run for delegate positions. There has been no consultation or ratification process by the Native Hawaiian people. The State legislature shoved the Office of Hawaiian Affairs into funding this process in a timetable to meet the final year of the U.S. President Barak Obama’s term of office in hopes that he would provide Federal Recognition of the Native Hawaiian people in an internal nation format, doing what the Akaka Bill(s) would have done if it had passed the U.S. Congress.

**CONCLUSION:**

The Na`i Aupuni congregation should advance the work of the AHO, recommending changes or providing critique to its two models, and support the finalization of its work for placement before the Hawaiian constituents. The Native Hawaiian public should not be put thru further delay and confusion with yet another set of models, now by a body which has no legitimacy by the people whose interest they are supposed to represent.

AHO should meet and be open to filling its rolls of active members, considering Na`i Aupuni members who meet the AHO qualifications and are nominated by the Moku to its General Assembly in accordance with its internal rules.

OHA should commit to fund this push to finalize the documents by AHO and place before the Native Hawaiian community its alternative recommendations for Independence or Integration.

Poka Laenui