

What is going on with Native Hawaiian efforts to form a Government with Na‘i Aupuni?

by Raul Nohea Goodness, October 11, 2015

So many Hawaiians are seeking clarity around the effort to create a Native Hawaiian Governing Entity with the Na‘i Aupuni. This is understandable, since there has been little public discussion of the facts and issues involved. I had the same questions when the process kicked off August 3, 2015, when election notices were first sent out. Here, I will share some of what I learned, facts as well as possible actions. I hope we can inform ourselves on what we, the lāhui, can do today about it. We all can make our own decisions on what comes next.

What is Na‘i Aupuni?

From naiaupuni.org:

Na‘i Aupuni is an independent organization made up of a volunteer board of directors from the Hawaiian community. It exists solely to help establish a path for Hawaiian self-determination.

In 2011, the State of Hawaii passed Act 195, which created the Hawaiian Roll Commission, aka Kana‘iolowalu. First, Native Hawaiians could sign up directly, then in 2013 names from other lists (OHA Registry, Kau Inoa) were added to the list. This is significant because the intention of the creators of the process is to have a government with “standing” or “authority” to legitimately take actions to request federal recognition from the U.S. State Dept. of Interior, and to negotiate/settle claims over the land trust with the State of Hawaii.

October 15, 2015: Voter Registration by the Hawaiian Roll Commission closes at kanaiolowalu.org

November 1, 2015: Ballots will be sent to voters certified by the Roll Commission as of 10/15/15.

November 30, 2015: Voting ends.

Between February and April 2016: ‘Aha (Constitutional Convention) held on Oahu over the course of eight consecutive weeks (40 work days, Monday through Friday).

Two months after ‘Aha concludes: If delegates recommend a form of Hawaiian government, a ratification vote may be held.

Although federal recognition is one likely outcome, theoretically the delegates to the convention could propose another form of government, such as an independent government based on reclaiming Native Hawaiians' National Sovereignty.

What is “Federal Recognition”?

The term “Federal Recognition” may sound good to some ears, because recognition as a Native Hawaiian is a “good thing”, right? The fact is, Native Hawaiians are already recognized as having special status under U.S. Federal law. None of that changes without an act of congress.

The term “Sovereignty” is sometimes used in the discussion to create a “government-to-government” relationship with the U.S. Dept. of Interior. U.S. law considers tribal governments as “dependent” governments, and reserve full authority for the congress over those governments.

The DOI proposed rules released September 29, 2015 spell out exactly what would happen if a Native Hawaiian government requests and receives federal recognition:

- ⤴ No transfer of Federal lands, including Hawaiian Homelands (no “reservation”)
- ⤴ Does not affect lands owned by State of Hawaii (no “ceded lands”)
- ⤴ Not eligible for any Federal Indian Programs (health care, etc)
- ⤴ No difference in protection of sacred places (Mauna Kea)
- ⤴ Hawaiian Governing Entity will be subject to Congress' plenary power (full control)
- ⤴ State of Hawaii will transfer Kaho‘olawe to the entity as a land base
- ⤴ “more effective” implementation of Dept. of Interior's “trust relationship”

Here's what we give up:

- ⤴ Claim to our National Sovereignty, which has never been surrendered

What is National Sovereignty (Independence)?

National Sovereignty is the exercise of sovereignty at the level of the nation-state. This first happened in Hawai‘i when Kamehameha united the islands in 1810 and asserted full political, economic, social, and cultural sovereignty over those lands.

In 1842, Hawai‘i was recognized as an independent Nation-state by the U.S., and recognized in 1843 by Britain and France.

This is what is unique about Hawaiians-- we were recognized as having National identity.

The U.S. Public Law 100-606 defines a 'national group' as a "set of individuals whose identity as such is distinctive in terms of nationality or national origins".

National Sovereignty and Federal Recognition are incompatible. One is a nation-state at the international level, and the other is a dependent government under the U.S. Federal system.

Today, Hawaiians still retain their National identity, we never surrendered it. But we do not yet have a means to exercise our National Sovereignty.

What is the Kingdom of Hawai'i today?

Historically, the Kingdom of Hawai'i was the government of Hawaiian Islands from 1810 to 1893. The form of government was a Constitutional Monarchy. Today, that government is no longer operational. For some, the Kingdom still exists. Practically, the National Sovereignty of the Hawaiian Nation-state would need to be re-established first. However, typically if a nation is considered a successor state to a prior nation, it can form a new government system if it is created from a legitimate, recognized process. It will be up to Hawaiians today to decide that.

In many cases internationally, new governments and constitutions are created to continue or re-establish a successor state. It does not have to have the same government that existed previously.

What are my options now as a Native Hawaiian?

- ⤴ Educate yourself, your 'ohana, do your own research, and talk to people about it.
- ⤴ Find a way to be counted in this process:
- ⤴ Participate in the Na'i Aupuni election process as an informed voter if you decide to engage the process. Find delegate candidates supporting your view for the 'Aha and vote for them. kanaiolowalu.org , naiaupuni.org
There are independent candidates: <http://kahea.hekili.net/pro-independent-hawaiian-election-resources/>
- ⤴ If you choose not to participate in the election, or are otherwise denied, sign the Protest Na'i Aupuni petition – <http://protestnaiaupuni.wordpress.com>
- ⤴ Write comments to the DOI rules: <http://www.regulations.gov/#!docketDetail;D=DOI-2015-0005>
- ⤴ Hui with others to protest. Be counted.

What are possible outcomes for the Na'i Aupuni 'Aha?

Federal Recognition under the Dept. of Interior

The delegates could draft a Governing Document to be voted on by Native Hawaiians via referendum. It would match all the criteria required by the U.S. Dept. of Interior, leaving only a formal request by that government to grant "Federal Recognition".

The request would be the first time Native Hawaiians have voluntarily surrendered their claims for National Sovereignty as a nation-state in the international system.

Declaration of National Sovereignty

Delegates could draft a statement of intent to reclaim Independence / National Sovereignty. This could be part of a path to an independent government, separate from the State of Hawaii and Federal government.

Declaration of "no authority" and a new process for Nation-building

In light of the rushed schedule for Na'i Aupuni, the lack of participation in Kana'iolowalu, and the lack of free prior informed consent, delegate could declare they do not have authority to draft a constitution, and instead propose a new process which includes all Kanaka.

No document (Status Quo)

There could be no governing document created or statement. The current state of affairs will proceed.

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Sources:

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