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OFFICE OF THE HEAD OF STATE

Pu'uhonua O Waimanalo Village, Waimanalo, Oahu

EXECUTIVE ORDER: 95-001

April 11, 1995

THE REFUGE ACT

By virtue of the authority vested in me by the Proclamation of Restoration of the Sovereign and Independent Nation State of Hawai'i of January 16, 1994, Resolution 94-006 of the Provisional Government of March 6, 1994, the Hawai'i Constitution of October 9, 1994 and the Hawai'i Constitution of January 16, 1995, Article VIII, Section 4.(e), the Declaration of National State of Emergency of January 17, 1995, and, finally by Natural Law of Na Kupuna o Hawai'i as the Head of State it is ordered as follows:

PURPOSE, POLICY AND IMPLEMENTATION

Terms and Definitions

The Refuge Act: In harmony with the cultural heritage and traditional values of Hawai'i there is established a new Pu'uhonua "Refuge Act" for the purpose of National and International peace and security for any individual no matter what the penalty or the avenger. Refuge in this law represents a superior law over all else and second only to the word of God. It shall protect and guard against any further abuses of our government and people and may be utilized by the Head of State during this State of Emergency for any reasons he deems necessary and required. The Refuge Act gives to the Head of State the Powers to act on behalf of the people in any order of business with the Full Authority of a country as an independent State with International Treaties, Conventions and Agreements. The laws of Hawai'i are carefully placed into The Refuge Act and shall remain within its protection until such a time that the Head of State shall terminate the State of Emergency and Transition of Hawai'i as an Independent State: Safe and Free.

The definition and use of the term "The Refuge Act" shall not be amended or altered in anyway and the contents therein shall be utilized to the fullest power of law under Present Law and Universal Law and shall remain the supreme authority of law throughout the transition.

International Treaties, Conventions and Agreements: In 1893 the United States breached the core principle of International Law by abridging their trust obligation to uphold the measures of the treaties they were in signatory with Hawai'i. Therefore the Treaties with the United States are violated and due to be addressed in the International Court of Justice. Because of this unlawful act the United States is also required to make a new treaty with Hawai'i should it be agreed upon by both parties at such time that the final business of Transition is addressed under the observations of the United Nations and under the Present Law.

Proclamation of Restoration

The Proclamation of Restoration of the Independent and Sovereign Nation-State of Hawai'i of January 16, 1994, is hereby adopted on behalf of the people of the Nation of Hawai'i, and is incorporated into this Constitution with full force and effect as law.

CHAPTER I RIGHTS AND EQUAL PROTECTION

ARTICLE I

Declaration of Fundamental Rights

Ke Akua has endowed every human being with rights and equal protection with the inherent and inalienable rights that shall not be denied nor infringed upon. Every individual person is born free by nature and is accorded the mutual respect of these rights. Every individual person has the corresponding obligation, duty and responsibility to honor and respect these basic fundamental rights before the law.

Section 1. The Fundamental Rights.

- a. The right of everyone to life, liberty and the pursuit of happiness.
- b. The right of everyone to religious freedom and spiritual practices, providing that it does not infringe on anyone's right to life, liberty and their pursuit to happiness.
- c. The right of everyone to choose one's nationality.
- d. The right of everyone to liberty of movement and freedom to choose one's residence.
- e. The right of everyone to be free from discrimination, regardless of race, creed, color, age, nationality, religion, gender or disability.
- f. The right of everyone to a healthy and sustainable environment.
- g. The right of everyone to a living according to the fruits of their labor.
- h. The right of everyone to work.
- i. The right of everyone to freedom of association.
- j. The right of every citizen to take part in government.
- k. The right of every citizen to vote.
- l. The right of everyone to freedom of speech.
- m. The right of everyone to an education.
- n. The right of everyone to privacy.
- o. The right of everyone to personal property.
- p. The right of everyone to be self-sufficient.
- q. The right to a nuclear free and independent Pacific.
- r. The right of everyone to speak the language of their choice.

Section 5. Cultural Preservation.

This Constitution, and all laws enacted hereunder, shall not infringe upon the right of the Kanaka Maoli Nationals to preserve their traditional culture. No law shall be enacted towards the destruction of either the culture or the practice of any Kanaka Maoli in his or her traditional culture.

Article XVII

Transitional Provisions

Section 1. Corporate Entities.

Upon the ratification of this Constitution, any illegal entity, corporate or otherwise, shall not be immediately dissolved. The Nation of Hawai'i shall provide sufficient notice to these entities and their responsible officers, agents, owners, or otherwise. Time shall be granted to allow these entities to state their claims and desire to function under the Nation of Hawai'i.

Section 2. Accountability.

All illegal occupying governmental agencies of the State of Hawai'i, the United States of America, corporate entities, foreign governments and individuals shall be responsible and accountable for the actions of their agents and officials in any criminal or civil claims under either this Constitution or international customary, conventional or criminal law.

Section 3. Requirement for treaty.

Any settlement of claims between the Nation of Hawai'i and the United States of America can only be resolved by a Treaty which has been accepted in accordance with this Constitution.

Section 4. No limitations for remedies.

This Constitution, and any laws hereunder enacted, shall not limit the lawful government hereby constituted from seeking any other remedy provided by law.

Section 5. Governmental transition.

The illegal occupying foreign regime of the State of Hawai'i and the United States of America may continue to provide services in Hawai'i to such extent necessary as the government of the Nation of Hawai'i shall deem proper and expedient for a peaceful transition towards restoration.

Section 6. Repeal of inconsistent legislation.

Upon the ratification of this Constitution, all laws of the State of Hawai'i and the United States of America inconsistent with this Constitution are hereby repealed and have no force and effect.

Article III

Equal Protection

Section 1. Protection against discrimination.

No law shall be enacted prohibiting or abridging the free exercise of these fundamental and enumerated rights, nor shall any individual person be deprived or denied the equal protections of these rights on account of race, creed, color, age, nationality, religion, gender or disability, without due process of law.

Section 2. Protection against police powers.

Every individual has the right to be secure in their persons, houses, papers, effects, and personal property, against unreasonable searches and seizures. No warrants shall be issued, unless there is probable cause, good and sufficient reason(s), supported under Oath or affirmation under the penalties of perjury, and particularly describing that place, and the persons or things to be searched or seized.

Section 3. Infamous crime.

No individual shall be held to answer for any infamous crime, unless upon the presentment of indictment by a grand jury.

Section 4. Protection against the imposition of the death penalty.

There shall be no death penalty.

Section 5. Protection against unreasonable punishment.

The purpose for the penal laws shall be for the reformation, rehabilitation, and future deterrence of those persons convicted of criminal acts. In no way shall the penal laws of the Nation of Hawai'i be constructed or applied for the purpose of retribution against a person convicted of a criminal act. At no time shall a cruel or unreasonable punishment be applied to a person convicted of a criminal act.

Article IV

Reserved Rights and Powers

Section 1. Other Rights Retained by the People.

The enumeration in this Constitution of certain rights shall not deny, deprive, or disparage any other rights retained by the people. Any of the powers not delegated by this Constitution, respectively are hereby reserved to the people.

Section 2. National Review of the Nation's Constitution.

People shall retain the right to continuously review this constitution and have the right to demand nation-wide legislative review within three months following the directives by consensus of any one Island's legislative body.

Section 3. Supremacy Clause.

The Constitution and all Treaties made under the authority of the Nation shall be the Supreme Law of the Land. All elected officials, judges and officers of the Nation are bound by Oath thereby, anything contrary to the Constitution and the Laws of the Nation notwithstanding.

Section 4. Enforcement.

All citizens have a right to enforce the Constitution, Treaties, and laws of the Nation in any court or Tribunal having jurisdiction.

Section 5. Immunity.

Any official of the government for the Nation of Hawai'i shall have sovereign immunity, but only if said official was acting within the proper scope of his or her authority. No official shall have immunity for criminal acts committed, whether or not such acts were done within the scope of the official's authority.

Section 6. Public Access.

All citizens have a right of free access to public documents.

Article XIII

Home Rule

Section 1. Definitions.

a. Home Rule.

Home Rule is defined as those powers not specifically of a National character relating to Island or local government. Home Rule allows each Island to administer its own affairs without interference from the National Government.

b. Island Administration.

Each Island shall create an administration for those affairs which are the exclusive purview of the Island.

Section 2. Administration.

Domestic responsibilities of each Island are those powers not specifically reserved to the National government in this Constitution. Each Island shall be responsible for allocating powers of the Island government.

Section 3. Island Administration.

Each Island shall be responsible for setting up its own administration, which shall be of the same democratic form as the National government. Each Island government shall be independent from any other, and no Island shall be responsible for the actions of another Island.

Section 4. Limitation.

There shall be no laws or regulations inconsistent with this constitution.

Section 2. Limitations.

- a. No member, in the capacity as an elected member in the Citizens' Assembly, upon their own initiative, may present any measure or bill for consideration or passage before the assembly.
- b. No member, having been elected an Official shall, during the time for which he or she is elected, be appointed to any other office, or accept any emoluments, gifts, trusts, or contributions from any organization, group, corporation, or person, with the exception of cultural protocol.
- c. All elected and appointed officials who have the authority to issue funds of the Nation shall be bonded.
- d. No ex post facto law or bill of attainder laws may be passed.

Article VI

The Citizens' Assembly

The Citizens' Assembly shall consist of Representatives elected by the qualified voters from the Districts in which the Representatives reside.

Section 1. Composition

The Citizens' Assembly shall be comprised of 112 representatives, 56 Nationals and 56 Citizens. Every Island shall elect their own representatives to the Citizens' Assembly as follows:

- a. 14 Island of Hawai'i
- b. 14 Island of Maui
- c. 14 Island of Moloka'i
- d. 14 Island of O'ahu
- e. 14 Island of Kaua'i
- f. 14 Island of Lana'i (to be held in trust until there is representation)
- g. 14 Island of Kaho'olawe (to be held in trust until there is representation)
- h. 14 Island of Ni'ihau (to be held in trust until there is representation)

Section 2. Terms of Office.

Each Representative shall serve for a period of 3 years, beginning at the time of election and ending at the next general election.

Section 3. Qualifications.

Each Representative shall have attained the age of sixteen years, and shall be of good moral character and standing within the District. Each representative shall have resided within the community for no less than 4 years.

Section 4. Powers and Duties.

Any Representative of the Assembly shall propose for the passage into law any Resolution, Bill, or Act only upon the request by any initiative or proposal from any national, citizen, group, or organization duly represented in the Representative's District.

Section 2. Charters of the Ministries.

Each Ministry shall have all functions listed in a Charter, and the Charter shall provide all legal authority and limitations for that Ministry. The Legislative General Assembly shall have full authority to modify a Charter at any time.

Section 3. Heads of Ministries, Departments.

All Ministry personnel appointed by the Head of State shall be approved with the consent of a two-thirds vote of Na Kupuna Council.

JUDICIARY

Article X

The National Tribunals

The National Tribunals are hereby established to exercise solely all judicial authority and functions as established by this Constitution. The Judicial Power shall be vested in one Supreme Tribunal, and in such inferior tribunals as the Legislative General Assembly deems necessary and proper to establish. The Tribunals shall have original and appellate jurisdictions, or as the Citizens' Assembly shall provide by law.

Section 1. Supreme Tribunal.

- a. The Supreme Tribunal shall be presided over by the Chief Justice and four Associate Justices;
- b. The Supreme Tribunal shall exercise original jurisdiction in all cases affecting Ambassadors and diplomatic representatives;
- c. In all other cases, the Supreme Tribunal shall have appellate jurisdiction and review, both as to questions of law and fact, as the Citizens' Assembly shall provide by law.

Section 2. Selection of Judges.

All judges shall be selected by Na Kupuna Council.

Section 3. Promulgation of Rules for the Tribunals.

The Supreme Tribunal shall promulgate rules and regulations in all civil and criminal cases with regards to procedure and appeals, which shall have the force and effect of law, with the advice and consent of a two-thirds vote of Na Kupuna Council.

Section 4. Circuit and District Tribunals.

The Circuit and District Tribunals shall have original jurisdiction in all civil and criminal cases, within the Circuit and District in which they sit.

Section 5. Qualifications of Judges.

Every judge shall be a Kanaka Maoli National, and use common sense to justify fairness, compassion, firmness and honesty in customary Hawaiian law and the laws of this Constitution.

Section 5. Powers, Duties, and Responsibilities of Na Kupuna.

Na Kupuna Council is hereby delegated the following Powers, Duties and Responsibilities:

- a. The authority to initiate a Resolution, Bill, or Act whose subject relates to the preservation of Hawaiian cultural values.
- b. Each Kupuna, whenever any Resolution, Bill, or Act for maintaining cultural values has been duly presented to the Council for enactment into law, shall have one vote.
- c. Each proposed Resolution, Bill or Act for maintaining cultural values shall become valid upon the two-thirds majority vote of all the members in Council assembled.
- d. Whenever a Resolution, Bill, or Act for maintaining cultural values, passed by the Council and enacted into law by the Head of State, conflicts with a Resolution, Bill, or Act passed by the Legislative General Assembly, the Council law shall have supremacy.
- e. Na Kupuna Council has concurrent veto power with the Head of State over legislation passed by the Legislative General Assembly. This Na Kupuna Council may accept a veto submitted to it by the Head of State by a two-thirds majority vote of the Council assembled within twenty days of receipt of the veto.
- f. Na Kupuna Council shall be responsible for the establishment of a Schedule for voting and apportionment of Districts for all elected officials of government.
- g. Na Kupuna Council shall have exclusive jurisdiction for impeachment and/or recall of government officials. Na Kupuna Council shall promulgate the rules and restrictions for the impeachment process. Notwithstanding this section, any official who commits a felony or other crime while in office, upon good and sufficient evidence found, shall be criminally indicted before a Tribunal having jurisdiction.
- h. Na Kupuna Council shall advise and consent on all appointments made by the Executive Administration.
- i. At the request of Na Kupuna Council, any official of the government of the Nation of Hawai'i shall be required to disclose all relevant materials involving acts committed by that official in an official capacity.

Section 6. Passage of Laws.

Each Resolution, Bill, or Act shall embrace but one subject, as described by its Title. The enacting clause on each law shall read:

“Be it enacted by Na Kupuna Council of the Nation of Hawai'i.”

Executive Powers

The Executive Administration

There shall be established an Executive Administration, which shall consist of the Head of State, a Deputy Head of State, and all Ministries established for the purposes of executing the laws and the business of the Nation.

Article VIII

The Head of State

Section 1. Head of State and Deputy Head of State.

There shall be elected among the qualified voters of the Nation, a Head of State and a Deputy Head of State, to execute and administer the laws of the Nation.

Section 2. Term of Office.

The Head of State and the Deputy shall hold office for the term of 4 years beginning at the time of election and ending at the next general election.

Section 3. Qualifications.

A person shall only be eligible to the Office of Head of State or Deputy Head of State who is a Kanaka Maoli National and Descendant, who has attained the age of 30 years, and has been 10 years a resident within the archipelago of Hawai'i.

Section 4. Powers, Duties, and Responsibilities.

The Head of State is delegated with the following powers:

- a. The Head of State shall be the Commander-in-Chief of the armed services when called into the service of the Nation, and shall commission all officers of the Nation of Hawai'i;
- b. The Head of State shall have discretion to grant reprieves and pardons, except in cases of impeachment;
- c. The Head of State shall make appointments of Ministers and executive officers, and shall fill vacancies in the Executive Administration;
- d. The Head of State may require the opinion, in writing, from the principal heads of these Ministries, upon any subject relative to the duties of their respective offices;
- e. The Head of State shall address to the Legislative General Assembly information of the state of the Nation, and recommend for their consideration measures as the Head of State shall judge expedient and necessary; and may on extraordinary circumstances convene Na Kupuna Council or the Citizens' Assembly, or both, for consideration of measures deemed necessary for the Nation's business;
- f. The Head of State shall conduct the foreign affairs of the Nation;