



Nation of Hawai'i

Pu'uhonua o Waimānalo

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2017 UNPFII Questionnaire to Indigenous Peoples' Organizations

1. Please provide the name of your organization/entity and where it is based. Please also provide details on the objectives and goals of your organization.

Nation of Hawai'i is based out of Waimānalo, on the island of Oahu, in the "State" of Hawai'i. Nation of Hawai'i's main goals are to correct the injustice, restore the National Sovereignty of the Hawaiian people and help our people exercise their right to self-determination in a meaningful, practical way.¹

Nation of Hawai'i runs many of its operations through its U.S.-based 501(c)(3) non-profit organization, *Aloha First*, and it has a long history of operating as an official organization that serves Hawaiians. *Aloha First* is a Hawai'i-based, Hawaiian-owned and operated non-profit organization, whose charter is to facilitate the development of a comprehensive blueprint and road map for Hawaiian reconciliation and restitution; and, to provide support, guidance, programs, and services for the business and asset formations required to make it happen and keep it moving forward.² In 2017, Nation of Hawai'i started a fundraising initiative called the *Ki Project* to support its nation-building activities.³

Nation of Hawai'i got its accreditation as an Indigenous Peoples' Organization during the 16th Session of the U.N. Permanent Forum on Indigenous Issues.

2. Which indigenous peoples/communities does your organization represent and/or work with?

Nation of Hawai'i is composed of the *Kānaka Maoli* (Hawaiian people) who are indigenous if you define that term in the broadest sense (*i.e.* the original people inhabiting the land prior to Western contact) but the Nation focuses on reframing "Hawaiian" as a ***national and an indigenous identity***. Hawaiians are an indigenous people who also possess a ***national identity***. We request that the U.N. and the international community refer to us exclusively as "Kānaka Maoli" or "Hawaiian." The U.S.-created terms "Native Hawaiian" and "native

¹For more information on Nation of Hawai'i, see our response to the UNPFII's 2016 Questionnaire to Indigenous Peoples' Organizations available at https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2016/08/Nation_of_Hawaii.pdf. Nation of Hawai'i also submitted a written report to the UNPFII. See the attachment entitled, "Nation of Hawai'i's Written Report to the UNPFII FINAL 1.30.17." See also bumpykanahele.com and hawaii-nation.org.

²For more information, visit our website at <http://alohafirst.com/>.

³See kitoworldpeace.com.

Hawaiian” have been very divisive and problematic and it is painful to see them used in U.N. reports and other international law documents. Naming and self-identification are essential to a people’s identity and we ask that you show due deference and respect for our right to name ourselves in a way that is true to who we are.

Nation of Hawai‘i’s sovereign land base, *Pu‘uhonua o Waimānalo*, has about 20 households and about 80 people currently living there but we have citizens throughout the State of Hawai‘i, the continental U.S. and the world and we would like to increase our land base so that we can bring more Hawaiians home. Although the Nation focuses on the *Kānaka Maoli* people, we work closely with many non-Hawaiian allies and partners who support the Nation and its fight to correct these injustices.

Prior to the Apology Bill, the *Kānaka Maoli* people were profiled into one or all of the following groups--ethnic, racial or religious. All Hawaiians were unilaterally re-identified as U.S. Nationals and as such, many have been convinced that being a *Hawaiian* National is not an option. After the Apology Resolution passed into U.S. law in 1993, the distinction between indigenous and “National” or “Nationality” became clear for the *Kānaka Maoli* people. International law scholar and lawyer Francis A. Boyle said that he could prove that the *Kānaka Maoli* people have been subjected to the crime of genocide. Our position is that the denial of a Hawaiian *national* identity is a genocidal act. Today, many of the lawsuits against Hawaiian trusts are based on claims that Hawaiian entitlements constitute *racial* discrimination (per the destructive and dangerous 2000 U.S. Supreme Court decision in *Rice v. Cayetano*).⁴ However, none of those lawsuits address the *nationality* of the Hawaiian people.

3. Are there laws and policies and/or administrative measures in your country to recognize the rights of indigenous peoples to own, use, control, and manage lands, territories, and resources? If so, please provide details.

In their report on the 16th Session of the Permanent Forum on Indigenous Issues, Permanent Forum members emphasized the importance of collective land rights and the corresponding difficulty of implementation:

5. Collective rights to lands, territories and resources and the right to self-determination, as recognized in articles 3 and 26, are among the most important provisions of the Declaration and the most challenging to implement. Legal recognition of indigenous peoples’ rights to lands, territories and resources must be complemented by effective implementation through enabling legislation, executive action and judicial protection. It is also critical that legislation enacted to establish recognition of indigenous peoples’ rights not be undermined or contravened by other laws and regulations.⁵

Hawaiians and other indigenous peoples currently under U.S. occupation have experienced firsthand the disconnect between the principles espoused in the U.N. Declaration on the Rights of Indigenous Peoples (hereinafter, the Declaration) and Member States’ failure to implement them. Although the U.S. has recognized the collective rights to lands, territories and resources and the

⁴*Rice v. Cayetano*, 528 U.S. 495 (2000).

⁵Permanent Forum on Indigenous Issues, Report on the sixteenth session (24 April-5 May 2017), E/2017/43-E/C.19/2017/11, <https://undocs.org/E/2017/43-E/C.19/2017/11>, pgs. 5-6, ¶ 5 (hereinafter, PFII Report on the 16th Session).

right to self-determination to some extent for federally recognized tribes in the continental U.S. and for Alaska Natives, the U.S. has failed to recognize the collective rights of the Hawaiian people to our lands and resources and we are excluded from many federal laws, administrative rules, and programs that have helped other indigenous peoples in the U.S. assert their rights to self-determination and self-governance.

Although the illegal overthrow of the Kingdom of Hawai‘i in 1893 was a pivotal moment in terms of loss of control over Hawaiian national lands, the 1848 *Māhele* put into motion the shift from collective land rights to private ownership and had devastating impacts on the Hawaiian people. The Hawaiian Homes Commission Act of 1920, Section 5(f) of the 1959 Admission Act, and Hawai‘i state laws, administrative rules, and case law recognizing traditional and customary Hawaiian rights have given Hawaiians access to some affordable housing, some state funding, and have protected some cultural rights. However, they have largely failed to recognize the *collective* rights of the Hawaiian people to control the lands, territories, and resources that belong to us but are currently being exploited by the U.S. government and its political subdivisions.

In 1993, the U.S. government validated the Hawaiian people’s claims to our lands in the Apology Bill, stating,

Whereas, the Republic of Hawaii also ceded 1,800,000 acres of crown, government and public lands of the Kingdom of Hawaii, without the consent of or compensation to the Native Hawaiian people of Hawaii or their sovereign government.

*Whereas, the indigenous Hawaiian people never directly relinquished their claims to their inherent sovereignty as a people or over their national lands to the United States, either through their monarchy or through a plebiscite or referendum[.]*⁶

However, the U.S. and its political subdivisions have failed to engage in a meaningful reconciliation process with the Hawaiian people and we are still awaiting the restoration of our national lands, territories and resources as well as practical, meaningful recognition of our right to self-determination and self-governance almost 25 years later.

Nation of Hawai‘i works to bridge the gap between principle and practice, using *Pu‘uhonua o Waimānalo* as a practical model for future Hawaiian national land restoration efforts and the cryptocurrency *Aloha Coin* to develop an independent Hawaiian economy, as discussed more in Question 6.

4. Are there any efforts or initiatives to (i) demarcate and/or map communal lands; (ii) registration of land titles (individual and collective); and (iii) adjudication of claims for collective rights to lands, territories and resources? If so, please provide details.

To our understanding, there are no current initiatives to demarcate and/or map communal lands for the Hawaiian people. There is a registration system for land titles in the State of Hawai‘i but the outstanding land claims of the Hawaiian people to the “ceded” lands have not been addressed by this registration system. Moreover, court cases have been brought to address

⁶Joint Resolution to Acknowledge the 100th Anniversary of the January 17, 1893 Overthrow of the Kingdom of Hawaii, and to Offer an Apology to Native Hawaiians on Behalf of the United States for the Overthrow of the Kingdom of Hawaii, Pub. L. No. 103-150, 107 Stat. 1510, 1512 (Nov. 23, 1993) (emphasis added).

outstanding land claims but jurisdictional issues and the lack of a widely recognized Hawaiian government have prevented meaningful adjudication of these collective land claims.

5. Please provide information on any projects or programmes to ensure the free, prior and informed consent of indigenous peoples in relation to development projects and/or extractive activities?

The Hawaiian people, the *Kānaka Maoli*, are in a problematic position when it comes to advocating for our consultation rights regarding development projects that impact our lands. Since a Hawaiian government does not currently have an official status with the U.S. government and its political subdivisions, individual Hawaiians and Hawaiian groups are the only ones with consultation rights. The case of Mauna Kea, which the Special Rapporteur on Indigenous Peoples addressed during a visit to the U.S. and subsequent letter in August 2015, is a perfect example of how the lack of a widely recognized Hawaiian government prevents the Hawaiian people from effectively asserting political and legal leverage to ensure that Hawaiian rights are at the forefront of any discussions regarding the impacts of development projects on our lands and most importantly, on sacred sites like Mauna Kea. A *Hawaiian nation* would have greater influence and political power to ensure that Hawaiian rights are not only considered, but are at the center of all decision-making regarding development projects. The report on the 16th Session of the Permanent Forum emphasized the need for increased collaboration with indigenous peoples,

14. The Permanent Forum encourages Member States with bilateral development agencies to enact, in accordance with the Declaration, policies that ensure the inclusion of indigenous peoples as partners in the development process, with a meaningful role in the design, implementation, monitoring and evaluation of all projects that affect their territories, rights and livelihoods.⁷

6. Do you have any examples of good practices that may be useful for resolving issues of ownership and control over natural resources? If so, please provide details. Please also include information on any specific programmes targeting indigenous women.

Nation of Hawai‘i has engaged in two practical strategies that have allowed it to assert greater control over Hawaiian national lands and resources: 1) the *pu‘uhonua* model for Hawaiian national land restoration, and 2) the creation of an independent monetary system through its cryptocurrency *Aloha Coin*.

The report on the 16th Session of the Permanent Forum discussed the need for greater capacity building:

12. The Permanent Forum urges all States to substantially increase the human, financial and technical resources made available to implement the Declaration, in accordance with article 39 thereof, and to overcome the remaining gaps between the formal recognition of indigenous peoples and the implementation of their rights.⁸

⁷PFII Report on the 16th Session, pg. 7, ¶ 14.

⁸*Id.* at pg. 7, ¶ 12.

While we wait for the U.S. government to fulfill its duty of reconciliation with the Hawaiian people, Nation of Hawai‘i serves as a model for how Hawaiians can assert their rights to our national lands in a peaceful, yet practical manner that does not wait for permission from the U.S. nor the State of Hawai‘i to assert our right to self-determination and the unrelinquished right to reclaim and restore our national lands. Land occupation has been one successful method for reclaiming our lands, but Nation of Hawai‘i will begin converting fee simple lands into national lands this year. Nation of Hawai‘i has a land repository program premised upon fee simple to lease conversion. This would take us back to a communal land tenure system in which the Hawaiian government would hold all elements of title for the benefit of the Hawaiian people. Since the passing of the Apology Bill in 1993, the titles under the current fee simple land system are cloudy.

Moreover, Nation of Hawai‘i has worked with Twinkle Borge and Pu‘uhonua o Waianae, sharing strategies modeled upon the Nation’s own land occupation struggles.⁹ Nation of Hawai‘i also acknowledges and supports land occupation struggles in other areas of Hawai‘i.

1) *Pu‘uhonua* Hawaiian National Land Restoration Model

The land base for Nation of Hawai‘i, *Pu‘uhonua o Waimānalo* (aptly named a “refuge”) serves as a living testament to the power of ‘āina (land), place and space to Hawaiian identity. Our lands are set apart from the State of Hawai‘i and the U.S. and they belong to and are exclusively managed and maintained by our people. It is truly a safe space for our people and a physical reminder of the power of ‘āina and the peace, joy and contentment that comes with caring for it in *pono* (just) way.

Nation of Hawai‘i’s sovereign land base has been essential to the mental, physical and spiritual restoration of the Hawaiian people and our continued fight to reestablish our Nation. Because Nation of Hawai‘i is set apart from the U.S. and the State of Hawai‘i and because we have exclusive control and sovereign authority over our lands and all the decision-making related to it, we are able to not only operate and truly live independently but we also enjoy the spiritual, mental, physical and economic benefits that come with not having an outside government dictate our lives.

Pu‘uhonua o Waimānalo is both a hope and a promise for a better future for Hawaiians--one where we can get back to the land and *mālama* (take care of) it in the way that only Hawaiians can--with the proper cultural and spiritual foundations and with a focus on bringing our people home. *Pu‘uhonua o Waimānalo* maintains a peaceful coexistence with the State of Hawai‘i and is a true starting point and a land base for the development of an independent and sovereign Hawaiian Nation State. It starts with us but we need more lands to expand our work and create greater opportunities for other Hawaiians to live truly free as Hawaiian nationals.

To achieve true justice, the Nation of Hawai‘i needs its land claims to be addressed with the approach, philosophy and the spirit the Declaration embodies. Thus far, Hawaiians have been denied a fair, collaborative process and we have never been given any form of redress for our outstanding claims even though it has been almost 125 years.

Origins of Pu‘uhonua o Waimānalo

⁹See <https://www.theguardian.com/us-news/2017/jun/22/hawaii-homeless-camps-puuhonua-safe-zones>.

The fifteen-month occupation of Kaupo Beach Park, Makapu‘u began in June 1993 when a group of houseless Hawaiians whose needs had not been met by either the state or federal governments established a permanent encampment of Hawaiian people with familial connections to the area. This group of Hawaiians had genealogical ties to the original owners of the land and made legitimate land claims as heirs to the rightful owners. Their land claims were further reinforced and supported by the passage of the Apology Bill in November 1993, which legitimized the land claims of the Hawaiian people to so-called “ceded lands” that had been illegally transferred after the illegal overthrow of the Kingdom of Hawai‘i in 1893.

In exchange for leaving the beach, Nation of Hawai‘i was given State of Hawai‘i agricultural lands in Waimānalo running adjacent to the Ko‘olau Mountains. These were undeveloped agricultural lands (*i.e.* massive expanses of dense forest) and the Nation worked hard to clear the land and build infrastructure and houses for everyone from the original occupation without assistance from the state or federal governments.

Nation of Hawai‘i’s authority over its lands is memorialized in a lease agreement between the State of Hawai‘i and *Aloha First*,¹⁰ the 501(c)(3) non-profit that Nation of Hawai‘i was required to create as part of the land negotiations. The State of Hawai‘i, Department of Land and Natural Resources’ General Lease No. S-5368 granted a 55-year lease to *Aloha First* (and by extension, Nation of Hawai‘i) and paragraph 61 states clearly:

61. Transition. In the event that a sovereign entity, *i.e.*, a sovereign nation of Hawaii, is established for the benefit of native Hawaiians prior to the expiration and/or termination of this lease term (55 years lease term), Lessor may give due consideration to transferring and/or conveying the premises herein to such newly established sovereign entity to be used for the benefit of native Hawaiians; subject, however, to any remaining term of the lease.

Although the lease agreement was approved by the Board of Land and Natural Resources at meetings on September 24, 1993, July 22, 1994, and February 11, 2000 and Nation of Hawai‘i has occupied the land since 1993, the lease agreement was not signed by representatives from *Aloha First* until March 27, 2001. The transition clause is extremely important because even the State of Hawai‘i acknowledges the likelihood of reforming the Hawaiian Nation and offers the land base now known as *Pu‘uhonua o Waimānalo* as national lands for the Hawaiian Nation. The only other land base with a similar status is the island of Kaho‘olawe, but that land is still littered with unexploded U.S. military ordnances and is currently uninhabitable.¹¹

Almost 23 years later, there is still a tenuous relationship with the State of Hawai‘i. The state has allowed Nation of Hawai‘i to flourish without interference but there is always a fear that everything could change. Not that the State of Hawai‘i nor the U.S. have the right, but that they have the manpower, resources and the political and legal might to do so. Truth and justice are always on Nation of Hawai‘i’s side but oftentimes, injustice and power trump even the most inalienable and truly sacred.

¹⁰See <http://alohafirst.com/>.

¹¹Hawai‘i Revised Statutes § 6K-9 states, “**Transfer**. Upon its return to the State, the resources and waters of Kaho‘olawe shall be held in trust as part of the public land trust; provided that the State shall transfer management and control of the island and its waters to the sovereign native Hawaiian entity upon its recognition by the United States and the State of Hawaii.” See http://kahoolawe.hawaii.gov/rules/CHAPTER_6K.pdf at pgs. 6-7.

Pu‘uhonua Model

Hawaiians must shift from merely surviving to thriving as a people. The creation of more *pu‘uhonua* is essential to Hawaiians being able to practice self-determination and nationhood in a real, practical way. The success of *Pu‘uhonua o Waimānalo* is a testament to the power of space and place to healing and strengthening the Hawaiian people’s belief that the Hawaiian Nation can live once again in all of us who believe. However, Hawaiians must have the chance to practice it by getting back our land, our culture and our identity as Hawaiian nationals. While we rebuild the Hawaiian Nation and a functioning government, it is crucial that all Hawaiians have the opportunity to practice living as Hawaiian nationals in the way we were meant to.

Nation of Hawai‘i emphasizes the importance of living in peaceful coexistence with the State of Hawai‘i and the U.S. Although we do not disrupt the current State system, we are also truly sovereign over our national lands. In this way, we acknowledge and recognize the oppressive State system around us, while also carving out a safe space for the full exercise of our rights as Hawaiian nationals. This relationship has been essential to maintaining peace and *aloha*, while also giving Nation of Hawai‘i the opportunity to exercise sovereign control and authority over our lands and all related decision-making.

The *pu‘uhonua* model allows Nation of Hawai‘i to practice being a small developing nation within the current system and this is essential to reframing and reimagining “Hawaiian” as a *national* identity while also allowing our people to practice being members of the Hawaiian Nation. Nation of Hawai‘i emphasizes that embracing one’s identity as a Hawaiian national does not require a person to relinquish his or her other national identities (*i.e.* U.S. citizenship) but would be similar to those people who possess dual citizenship and are nationals of more than one country. Hawaiian nationality functions in a similar manner especially because most Hawaiians have had to take on U.S. citizenship and operate within that system in order to survive.

2) Aloha Coin: Building An Independent Hawaiian Economy

Nation of Hawai‘i has long been involved in advocacy efforts on behalf of the Hawaiian people that focus on developing our economic sovereignty to move from dependency to maturing capacity and independently managing and controlling our cash and assets.¹²

Nation of Hawai‘i has promoted Hawaiian economic sovereignty through the development of an independent monetary system. The Nation worked closely with Japanese business partners to develop the cryptocurrency *Aloha Coin* and through a 2015 executive order, the Nation adopted a cryptocurrency-based national monetary system and named *Aloha Coin* as its national currency.¹³ *Aloha Coin* is a Japan-based cryptocurrency and its founders consulted closely with the Nation in its development.¹⁴ Cryptocurrency is a good alternative to traditional banking and credit card systems, which have largely failed Hawaiians and other indigenous peoples due to discriminatory and predatory practices.

On February 26, 2017, during the Virtual National Indigenous Consultation with Special Rapporteur on the Rights of Indigenous Peoples, Victoria Tauli-Corpuz, Nation of Hawai‘i shared:

¹²See <http://bumpykanahale.com/kuleana-waiwai-like/>.

¹³See <https://www.hawaii-nation.org/alohacoin.html>.

¹⁴See alohacoin.info and aloha-coin.com.

An Independent Monetary System--such as Nation of Hawai‘i’s cryptocurrency *Aloha Coin*--is a solution to many of the issues discussed in this consultation. With a decentralized monetary system that is not attached to the oppressive Member State government and that is independent from central banking and credit card systems that have not treated indigenous people fairly, an indigenous nation can build a strong, independent economy, empower its people and wield powerful economic, social, legal and political capital.¹⁵

During the 16th Session of the Permanent Forum, Nation of Hawai‘i made an intervention as part of the International Indian Treaty Council delegation. We discussed our work to achieve economic recognition through our cryptocurrency *Aloha Coin* and recommended that the “Permanent Forum conduct a study on how Sovereign Indigenous Nations exercise and promote their National Sovereignty through traditional and new economic development projects that provide for their Peoples in the absence of adequate State assistance.”¹⁶ During that Session, Les Malezer was appointed to “undertake a study on indigenous peoples and sustainable development, to be submitted to the Forum at its seventeenth session.”¹⁷ Nation of Hawai‘i hopes that Mr. Malezer will consider Nation of Hawai‘i’s work with *Pu‘uhonua o Waimānalo* and *Aloha Coin* in his study.

7. Has your organization been involved in any legislative, policy and/or administrative measures taken by the Government to implement the UN Declaration on the Rights of Indigenous Peoples? Please provide details.

Nation of Hawai‘i has strongly opposed U.S. government initiatives that negatively impact Hawaiian National Sovereignty such as the many iterations of the Akaka Bill and the Department of Interior’s administrative rule that creates a process for re-establishing a formal government-to-government relationship with Native Hawaiians as well as state and local initiatives impacting Hawaiians.

8. Have any steps been taken to develop a national action plan or strategy on indigenous peoples? Please also include information on any capacity building to strengthen awareness and action to implement the UN Declaration on the Rights of Indigenous Peoples.

No. Although the U.S. finally announced its support for the Declaration in 2010, it has failed to develop a national action plan or strategy on indigenous peoples, leaving a glaring gap between the principles it has claimed to support and their practical implementation. This has been especially harmful to Hawaiians, who have been recognized as an indigenous *people* but not as a *government*, thus excluding them from many of the benefits, privileges and powers that other federally recognized indigenous peoples enjoy. A recommendation from the report on the 16th Session of the Permanent Forum highlighted this deficiency:

¹⁵See attachment entitled, “Nation of Hawai‘i’s Talking Points for SR Consultation 2.26.17.”

¹⁶See <http://statements.unmeetings.org/media2/14684046/ittc.pdf>.

¹⁷PFII Report on the 16th Session, pg. 19, ¶ 107.

9. Notwithstanding the progress made in implementing the Declaration over the past decade, the Permanent Forum is concerned about a gap between the formal recognition of indigenous peoples' rights and their implementation in practice. Indigenous peoples continue to face exclusion, marginalization and major challenges to enjoying their basic rights. Ten years after the adoption of the Declaration, the usurpation of indigenous peoples' lands and resources continues at an alarming rate and threats and violence against indigenous peoples who defend their territories, rights and livelihoods have increased dramatically. The Forum is also concerned about the continued refusal of some States to recognize the existence of indigenous peoples, and that free, prior and informed consent is rarely, if ever, obtained from communities for projects and legislation that affect them.¹⁸

9. Please provide information on the involvement of your organization/peoples with UN offices at the country level including on:

a. Any projects, activities, dialogues and/or public awareness campaigns;

b. Preparation of country programmes and UN Development Assistance Frameworks (UNDAF).

Nation of Hawai'i has participated in UNPFII sessions through the International Indian Treaty Council (IITC). Two representatives from Nation of Hawai'i attended the 16th Session of the Permanent Forum as part of the IITC delegation and made statements during the Session.¹⁹ Nation of Hawai'i also received accreditation as an Indigenous Peoples' Organization during the 16th Session. Nation of Hawai'i recently applied for a grant through the U.N. Democracy Fund.

10. Has your organization been involved in the implementation, review and follow-up to the 2030 Agenda? If so, please provide details.

No, except to the extent that relevant principles were discussed during our interventions at the 16th Session of the Permanent Forum.

¹⁸*Id.* at pg. 6, ¶ 9.

¹⁹See <http://statements.unmeetings.org/media2/14684046/ittc.pdf>.