

Commonwealth of the Northern Mariana Islands
Office of the Mayor
The Northern Islands
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Saipan, MP 96950

**PROPOSED CONSTITUTIONAL AMENDMENTS SUBMITTED
TO THE CNMI'S THIRD CONSTITUTIONAL CONVENTION**

A. EMPOWERMENT OF LOCAL GOVERNMENT. The CNMI Constitution provides for a very vague and ambiguous local government. We need to either refine the provision to provide for a true local government capable to provide essential services or abolish all semblance of local government in their entirety. Both choices have consequences that need to be carefully examined and studied so that functions, responsibilities, and authority between the central and local government are clear and unambiguous. We have adequate experience with the current system to know that it cannot continue under the existing arrangement and/or framework.

I, therefore, strongly recommend that our Constitution be amended to empower the local government. In short, local government must be empowered with the ability to generate and appropriate revenues for local programs and services independent of the central government. This will require an overhaul of our governmental institutions but will resolve perennial confusion on the issue of local autonomy.

We need to examine how our government can be more accountable to the people and be more responsive to the needs of our individual communities. The Mayors and Municipal Councils must be empowered with the authority to generate revenues and provide essential government services. Officials of the local government (Mayors and Municipal Councils) are closer to the people and should be given the tool to deliver the best services at a quicker pace. As such, I proposed that all functions of government (except public health, public safety, and those functions delegated to autonomous agencies) should be decentralized to the local government.

The legislative power of the Commonwealth shall continue to be extended to all rightful subjects of legislation as long they are within the state or central government and shall continue to be vested in a Northern Marianas Commonwealth legislature composed of a senate and a house of representatives operating on a part-time basis. The Municipal Councils shall have the right to create local laws. Thus, the Constitution should be amended to include a provision similar to the Tenth Amendment to the U.S. Constitution so that whatever the central (state) government does not prohibit, the local government

reserves the right to create. The Senatorial Legislative Delegations should then be abolished as they are performing functions that are duplicative of those delegated to the respective Municipal Councils. Further, make the CNMI legislature part-time to have sessions only 4 months out of the year. Thus, legislators should not be prohibited from seeking employment elsewhere such as in the private sectors, non-profit corporations, and/or autonomous agencies (as long they are not in the judiciary and/or executive branches).

A percentage of the revenue generated from each Senatorial district should automatically be reverted to the local government for appropriation and administration by the Municipal Councils and Mayors respectively. An alternative to revenue sharing is to provide that all income taxes will be used by the state (central) government and all other taxes (public land lease, users fees, and taxes - excise, BGR, and other related taxes) will be used by the local government that generated the revenues. This will provide the necessary resources for the local government to function and will prevent the perennial budgetary infighting in the legislature. All federal funds available through the Covenant or through other annual federal programs should be applied for by the central government consistent with the provisions and procedures established by the applicable federal law. Thus, federal pass-through requirements (to units of local government) should be applicable. Also, in cases where the central government does not meet the submission deadline, local government may apply directly to the federal government.

The recent discussion on the resurgence of the Village Commissioners to replace the Mayors is short-sighted and flawed. Village Commissioners will only increase the size of local bureaucracies and will continue to be a waste of public funds. Each Commissioner will most likely have to hire staff to assist on community projects, purchase equipment and vehicles for community services and incur many other additional expenses. The set-up will create sub-cabinets with little or no resources to deliver what the people truly need. Thus, I am in support of the retention and empowerment of the local mayors.

With regards to the governor's misguided desire to abolish the Northern Islands Mayor's Office, the issue needs further examination. On the surface, the elimination of the office may seem financially prudent but, on deeper analysis, the opposite may be true. The governor's vexation on this matter was uttered without the benefit of any costs analysis or serious consideration to the human factor. The fact remains that many Northern Islands residents want to return to their homes but due to nature's restrictions, permanent settlements can only be pursued on three islands, mainly Agrihan, Alamagan, and Anatahan.

The honorable delegates should be informed that the Northern Mariana Islands (CNMI) have been in existence as a Commonwealth for almost twenty years already. To date, however, all of the infrastructure development and other local and federal resources available to the CNMI have been allocated solely to the islands of Tinian, Rota, and Saipan. The islands North of Saipan, consisting of ten (10) major islands covering a total land mass of about 55.3 square miles, have been largely ignored and left idle under the guise of preservation. The residents have yet to receive title to their land. Access to the islands is difficult as none of the islands have any port facilities. Transportation and communications between Saipan and the Northern Islands is sporadic, expensive, and unreliable. Electrical power and sewer facilities are non-existent. Water is provided via rain and water catchment facilities are non-existent other than run-off from roofing tin homes. In-land roads are also non-existent and limited only to walking trails. Thus, the resident population is forced to live on Saipan as the CNMI government has perennially failed to provide adequate resources for safe and sanitary living conditions and other essential infrastructure in the Northern Islands. To eliminate the Northern Islands Mayor's Office is to perpetuate the government's continuing benign neglect on its solemn duty to serve the people.

Furthermore, I have yet to hear of an alternative solution as to who will assume the responsibility of providing basic services to the people of the Northern Islands and promoting their socio-economic growth if the office is abolished. Even with a full-time Mayor desperately trying everything humanly possible to properly develop the Northern Islands for the benefit of the CNMI in general and for the Northern Islanders in particular, not much has happened. I cannot imagine what will happen if the office is totally abolished. I strongly feel that the current arrangement of sharing the Saipan Municipal Council until the population reaches 1,000 or more is acceptable and should be even better when empowered with the authority to generate revenue particularly from commercial fishery operations in and around the waters of the Northern Islands and volcanic mineral mining in Pagan.

Currently, the Mayor of the Northern Islands is seeking to provide essential services to the residents of the Northern Islands and to begin establishment of more permanent settlements on Anatahan, Alamagan, and Agrihan. Major goals and objectives have been proposed but available resources necessary for their accomplishments are either minimal or non-existent due to the continued reliance on the central government who continues to ignore the urgent pleas of the indigenous residents of our Northern frontier.

In an effort to realize the vision of developing the socio-economic potential of the Northern Islands, Constitutional amendment is requested to enable the Mayor to promulgate rules, regulations and laws

necessary to enable the assessment and collection of additional revenues through the commercial licensing fees and/or taxes. As noted earlier, these fees and/or taxes can be assessed from the mining of the Pagan mineral resources and from commercial fishing in and around the islands North of Saipan which are considered to be one of the most fertile fishing grounds in this region of the world. Further, the Mayor proposes the assessment of a developers' impact fees for all commercial development in the Northern Islands should the Constitution provide for such empowerment.

The islands targeted for permanent settlements include Anatahan, Alamagan, and Agrigan. When Asuncion and Pagan islands are classified as safe from volcanic activities, permanent settlements on the two islands will also be pursued. Commercial development will be encouraged on any of the islands not classified as wildlife refuge. Currently, all of the islands North of Saipan are public land. Joint efforts between the Mayor and the Secretary of the Department of Lands and Natural Resources, however, are currently underway to begin surveying work for implementation of the village homesteading program which is anticipated to commence in the Summer of 1995.

The Northern Islands now have an estimated population of one-hundred fourteen (114). This figure is projected to reach one-thousand (1,000) once basic infrastructures, reliable and consistent transportation, and other governmental services are in place in Anatahan, Alamagan, and Agrihan.

B. PROMOTION OF POLITICAL, CULTURAL AND ECONOMIC STABILITY.

The honorable delegates must thoroughly examine the Constitution and provide the necessary mechanism to promote a more stable political and economic environment. The following is suggested to be incorporated into the Constitution:

1. Exclusive Economic Zone. The CNMI must assert its sphere of economic influence and declare a 200-mile Exclusive Economic Zone to protect, preserve, and/or retain for our economic use our valuable fishery and other marine resources.

2. Super Majority for Tax Increases. The Legislature must be controlled and/or restricted in its ability to raise taxes. All tax increases must require at least 2/3 majority approval by both houses of the Legislature with mandatory public hearings prior to passage. The existing procedures of raising taxes with a simple majority and often without the benefit of a public hearing is damaging our reputation and reaffirms investors fears of our unstable political and economic environment.

3. Refinement of Executive Role in Policy-Making. The existing procedures for passage of Executive Orders must be amended. Executive Orders shall become law if approved by both houses of the legislature or if no single house rejected the EO within 60 days from submission by the Governor. The EO shall not affect matters under the authority of the Legislative and Judicial Branches or under the jurisdiction of the PSS, NMC, Retirement, Civil Service Commission, and/or local government.

4. Reduction in the Size of Government. Personnel costs within the CNMI budget must be restricted to an amount not to exceed a specific percentage of the total revenue collected. The only exception to this restriction shall be reserved for public safety and public health personnel matters. Without this provision, a runaway governor can politicized the entire government through a process of indiscriminate hiring and uncontrolled expenditures of public funds for personnel. Further, all non-public safety and non-public health matters (and other than autonomous agencies) should be relinquished to the local government who shall also be subject to the same restrictions on personnel costs.

5. Legislature. As stated earlier, the legislative power of the Commonwealth shall continue to be extended to all rightful subjects of legislation as long they are *within the state or central government* and shall continue to be vested in a Northern Marianas Commonwealth legislature composed of a Senate and a House of Representatives operating on a part-time basis. The Municipal Councils shall have the right to create local laws. Thus, the Constitution should be amended to include a provision so that *whatever the central (state) government does not prohibit, the local government reserves the right to create.* The Senatorial Legislative Delegations should then be abolished as they are performing functions that are duplicative of those delegated to the respective Municipal Councils.

The current ceiling on the Legislative Bureau should be deleted as other protections are already recommended. The division of funds between the House and the Senate should be amended to delete the section in its entirety or divide the funds more equitably. The legislature can be reduced in size by reducing the number of Senators from 3 to 2. As noted above, make the legislature part-time to hold sessions only 4 months out of the year to pass critical laws and the budget. The budget process should be examined to determine if two-year budgets can be entertained. Further, the suggestion of changing the legislature from bi-cameral to unicameral form is not only an outright violation of the Covenant but also will unfairly discriminate the people of Rota and Tinian by not having adequate representation in the legislative branch.

6. Political Independence of Autonomous Agencies. The Public School System, Northern Marianas College, Retirement Fund, and the Civil Service Commission shall be politically independent and subject only to the direction, supervision, and control of their boards. Board members may either be elected or appointed. Once properly seated, however, members cannot be removed except for cause. Programs and benefits affecting the autonomous agencies shall be decided only by their respective boards and not by the governor or the legislature.

7. Unified Court System. The Supreme Court and the Superior Court must be Constitutionally established. The administration and operation of the courts must be unified to centralize and coordinate personnel management, budgeting, case assignments and management, jury processing, and related administrative matters.

8. Carolinian and Indigenous Affairs. The Office of Carolinian Affairs and the Office of Indigenous Affairs should be retained and strengthened to provide for the continued protection and preservation of our valuable culture and heritage. If elimination or consolidation of offices is inevitable, then I suggest the merging of both offices into one. However, the merging of both functions should expand its realm of responsibilities and significance within the overall government framework. The welfare of the Chamorros and Carolinians must be the primary focus of the new expanded Office of Indigenous Affairs.

9. Land Alienation - Article XII. The Article XII provision should be clarified but the major intent and purposes of the land alienation provision should be maintained. Some of the fairness clause of CNMI Public Law 8-32 should probably be considered for incorporation into the Constitution. Further, land ownership via adoption of non-Chamorro and non-Carolinian should not be abolished because of a few abuses that may have occurred. Rather, the Constitution can lower the age limit for adoption for purposes of land ownership. Perhaps, a language can be inserted to provide that for purposes of Article XII, a non-Chamorro/Carolinian (of Northern Marianas decent) can own land if adopted before the age of five (5) rather than 18 to eligible parents. Anyone adopted after 5 years of age that is not an indigenous person will no longer be eligible to own land.

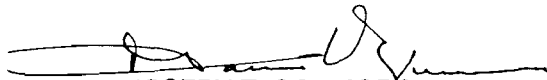
Thank you for the opportunity to express my views to the CNMI's Third Constitutional Convention. I hope that the community can be given adequate time to review and study the product of the Convention prior to the general election. In this respect, I suggest that amendments to our Constitution not be voted upon in the coming November 1995 general election as the amount of time will not be sufficient for proper

community and other public education on the changes. Perhaps, a special election should be held for the purpose of voting on the Constitutional Amendments, if there are any.

Your urgent attention to the above suggestions is appreciated. If you need further information, please feel free to contact me at your convenience. In the meantime, I pray that God continues to provide his love and guidance as you deliberate in this very important assembly and as you chart the destiny of our great Commonwealth.

Si yuus maase and ghilisow reemi.

Sincerely



JOSEPH T. OGUMORO
Mayor