



Te Ipukarea Society Inc
Caring for our Environment



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Purse seining claim successful in Court of Appeal

The Cook Islands Court of Appeal in Avarua, Rarotonga, has upheld the claim by the Aronga Mana of Te Au O Tonga and Te Ipukarea Society against the Cook Islands Government over an agreement with the European Union on purse seine fishing in Cook Islands waters.

The Court of Appeal found that the Government breached its domestic and international legal obligations by failing to conduct an environmental impact assessment (EIA) before extending the purse seine fishery. The Court also found that the Government, again in breach of domestic and international law, failed to apply the precautionary approach. The Government did not properly consider the impact on by-catch species such as bigeye tuna, and the impact on local fishers. The Court was particularly concerned that there had been a complete lack of consultation with local fishers before the decision was made. In addition, the Court found that the Government has failed to comply with the requirement in its own Purse Seine Fishery Plan to conduct a review every two years.

The Court has directed Government to obtain, examine and consider an EIA for the purse seine fishery within 12 months, in accordance with the Environment Act and international law.

Kamoe Mataiapo and Patron of Te Ipukarea Society, Ian Karika said he was very pleased that the claim had been successful. "The decision to take on the Government on this issue was not taken lightly and we only went ahead with it because of the overwhelming support from the community," he said. "We are so fortunate to live in a country where this can be done, without fear of the potential consequences of taking on the Government, for a cause we strongly believe in", he added.

The Court also ruled that Te Ipukarea Society and the Aronga Mana of Te Au o Tonga are entitled to claim against Government for their expenses in taking this matter to court. However, following a discussion between representatives from Te Ipukarea Society and the Aronga Mana, it was agreed that they will not seek costs. The appellants feel that to claim costs would ultimately place more burden on the taxpayers, who have already funded the considerable expenses Government had outlaid to dispute the claims. In addition, TIS and the Aronga Mana had already received generous financial support to fight this case from Cook Islands taxpayers and overseas supporters through fund raising.

Technical Director of Te Ipukarea Society, Kelvin Passfield, said "we and the Aronga Mana of the Cook Islands are extremely grateful for the time and effort put in assisting us research the case and presenting it to the court by our legal team, Isaac Hikaka and Jack Cundy of the law firm LeeSalmonLong."

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