

## **Ocean Sanctuary Threatens Maori Constitutional Rights, Say New Zealand Indigenous Leaders**

By Harry Pearl

<http://www.newsjs.com/url.php?p=https://news.vice.com/article/ocean-sanctuary-threatens-maori-constitutional-rights-say-new-zealand-indigenous-leaders>

April 28, 2016 | 6:15 am

When New Zealand's Prime Minister John Key announced the establishment of one of the world's largest marine reserves at the United Nations last year, it was met with near unanimous praise. The proposal got the nod from big conservation groups and scientists, and media coverage was generally flattering.

The 620,000 square kilometer sanctuary in the Kermadec region, northeast of New Zealand, is one of the most pristine and biodiverse on Earth, home to 35 species of whales and dolphins, 150 types of fish, and three of the world's seven sea turtle species. Under the plan, fishing, oil, gas, and mineral exploration would be banned.

But seven months later the sanctuary is at the center of a legal dispute and claims that "foreign" NGOs — most notably the Pew Charitable Trusts — were instrumental in a decision that will see New Zealand's indigenous people stripped of constitutional rights.

Jamie Tuuta, the director of New Zealand's peak indigenous fishing body, Te Ohu Kaimoana, said lobbying of the New Zealand government by the Pew Charitable Trusts had directly resulted in the removal of fishing rights granted to Maori in the Kermadec region.

"We are not saying it is unreasonable for Pew Trust or other environmental NGOs to advocate for what they consider to be appropriate marine environment protection," Tuuta said. "What we do take issue with is where the consequences are that that advocacy cuts across and abrogates Treaty [of Waitangi] rights protected and guaranteed to Maori."

"There has always and will always be a debate between those advocating marine protection and the interests of the commercial fishing industry."

Te Ohu Kaimoana — a statutory authority created to look after all Maori fishing rights — has filed a legal suit in the New Zealand High Court challenging the government's plan. It claims indigenous quota holders weren't adequately consulted and have now had their property rights extinguished without compensation.

They argue the ban on fishing contravenes a landmark 1992 settlement, known as the Sealord deal, in which Maori were awarded 50 percent of New Zealand's largest fishing company, Sealord, and 20 percent of the country's fishing quota as compensation for past grievances.

Maori fisheries, land and other rights were guaranteed under New Zealand's founding document, the Treaty of Waitangi, but were regularly violated following its signing in 1840.

"The point of difference is that we believe our rights, as agreed with the government in 1992 through a major deal under the Treaty of Waitangi, the founding document of this country — much like the US Declaration of Independence — allow us continued access to fisheries in that region," Tuuta said.

Te Ohu Kaimoana's legal challenge has the support of a number of iwi, or tribes, from around the country, and six of New Zealand's most prominent Maori leaders recently condemned the proposal and the pressure put on the government by the Pew Charitable Trusts.

"Coming in here and pushing us around, and pushing our political leaders around in the manner they have is reprehensible and has to be opposed," said Sir Tipene O'Regan, who was instrumental in negotiating the 1992 settlement.

New Zealand's centre-right government sees the matter differently, however, and has vowed to push ahead with the sanctuary. Minister for the Environment Dr. Nick Smith has said opponents are "overstating the impacts in respect of fishery and Treaty settlement obligations and underestimating the opportunities for economic and scientific gain." The government argues the area is not extensively fished and Maori are not using their rights in the region.

The view is shared by the Pew Charitable Trust.

"We've lobbied for six years for the establishment of the Kermadec Sanctuary so we welcome the government's decision," said Bronwyn Golder, Director of The Pew Charitable Trusts' Global Ocean Legacy.

Golder said Te Ohu Kaimoana advocated for commercial fishing and did not speak for all Maori. She said the sanctuary had the support of the two tribes that identified the Kermadec region as part of their traditional territory.

"There has always and will always be a debate between those advocating marine protection and the interests of the commercial fishing industry," she said. "We believe absolutely that the sanctuary does not extinguish quota rights and rights as accorded under the fisheries settlement."

[Related: The 'Dark Side of Conservation' — NGOs Accused of Trampling Tribal Rights in Push to Protect Environment](#)

Less than half a percent of the New Zealand marine environment is fully protected and none of the environment beyond 12 nautical miles is safeguarded, she said.

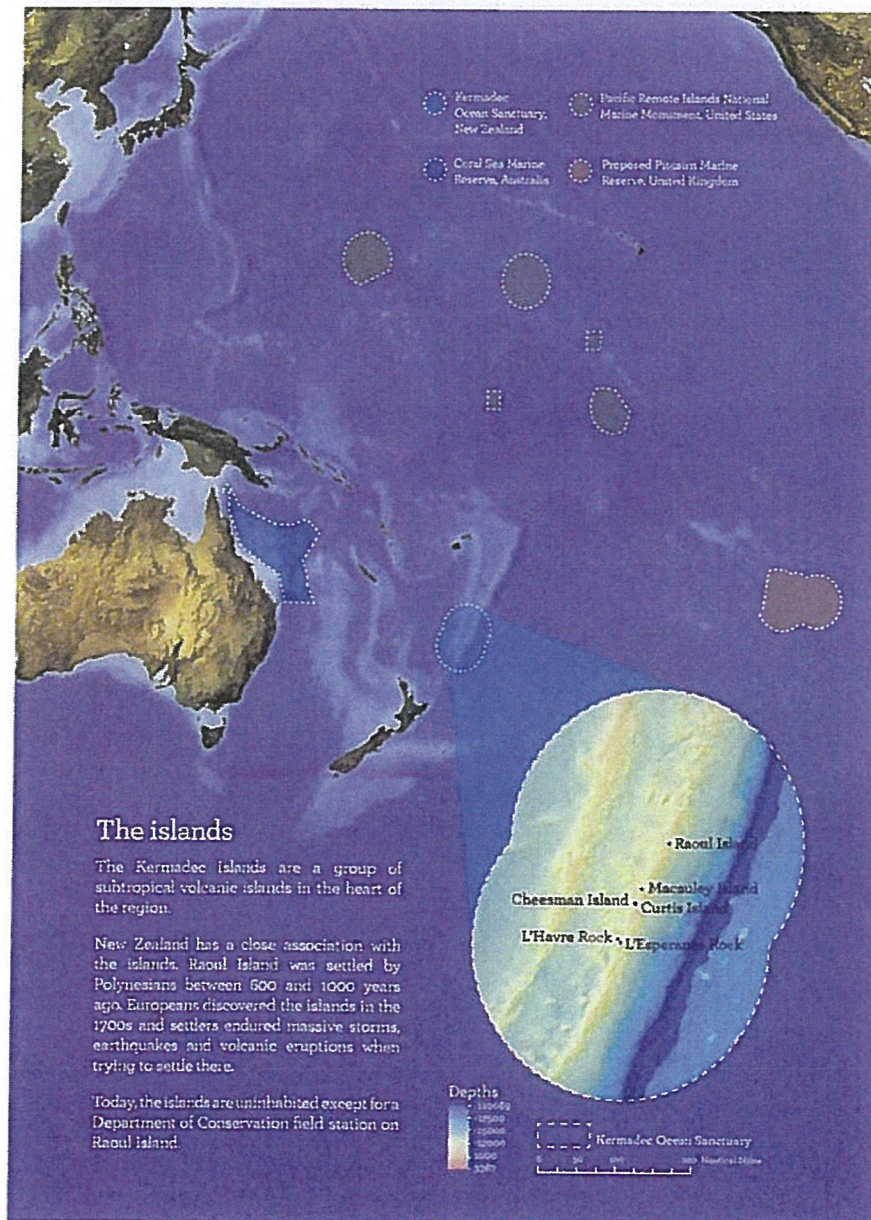
A small part of the Kermadec region is already protected. There are marine reserves around every island out to 12 nautical miles. The seabed around the islands is a Benthic Protection Area, which bans bottom trawling and dredging. Te Ohu Kaimoana says it would support a further ban on seabed mining.



Tuuta said the Pew Charitable Trust had failed to recognise the effort and willingness of Maori to look at ways to ensure sustainability.

"Philosophically we're big believers in sustainability and kaitiakitanga [guardianship and conservation], but that's all about use, and managing use and ensuring we get the right balance," Tuuta said.

He added, "We don't agree with locking up areas of the ocean and intensifying fishery efforts in other areas."



(Image via New Zealand Ministry for the Environment)