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Inter-American Commission on Human Rights to hear Hul'qumi'num land claim

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LADYSMITH, British Columbia – A coalition of First Nations groups has taken its human rights complaint against the government of Canada into the international arena where the state will be required to defend its record.

The Hul'qumi'num Treaty Group has successfully petitioned the [Inter-American Commission on Human Rights](#) to hear its case that Canada continues to violate the human rights of the area's aboriginal people whose territories – some 750,000 acres on Vancouver Island – were illegally confiscated and privatized by the state in the 19th century.

The treaty group is seeking compensation for the dispossession of their aboriginal lands.

In admitting the case for review, the commission has waived a requirement for the group to exhaust “domestic remedies,” meaning negotiations or a ruling in a Canadian court.

The Hul'qumi'num Treaty Group is a political organization representing more than 6,600 First Nations people in British Columbia, including members of the Chemainus First Nation, Cowichan Tribes, Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation and Penelakut Tribe.

IACHR is an autonomous branch of the [Organization of American States](#) dedicated to the promotion and protection of human rights in its 35 member countries; Canada is an OAS member.

The Hul'qumi'num group is hoping that the international tribunal review will help break through – and resolve – a 14-year stalemate in treaty negotiations with Canada.

The group filed the human rights complaint with the commission in 2007, arguing that Hul'qumi'num human rights to property and culture are being violated and ignored by Canada's failure to resolve the First Nations' land claims.

The complaint specifically cites violations of Articles II, III, XIII and XXIII of the [American Declaration of the Rights and Duties of Man](#).

The roots of the complaint reach back to 1884 when the Canadian government gave a massive land grant to a railway company, HTG's chief negotiator Robert Morales said.

“The government of Canada granted about 80 percent of our traditional territory in private

ownership to this railway company. There was no consultation, no treaty, no compensation, no discussion with the First Nations. And so when we entered into the modern treaty-making process, we were told those private lands were not on the table, that the government was not prepared to deal with them.”

The Canadian government was prepared to negotiate over “crown” or state lands – very little of which is in the HTG’s territory.

“Our leadership, our chiefs and our members were not prepared to accept that and as a result of that and the government’s inability to change their position, we made the decision to take our case to the Inter-American Commission on Human Rights,” Morales said.

The land in question is some of the most valuable property in Canada, and perhaps all of North America. According to the HTG’s complaint, despite the people’s dispossession of the land, they continued to hunt, fish, gather food and hold ceremonies and spiritual activities on “a good portion of their ancestral lands.”

But those activities have been curtailed during the last seven years “due to the dramatic increase in concessions granted to private individuals and real estate developers for the construction of homes, commercial buildings and resorts within that territory, as a result of the 2010 Winter Olympic Games being held in British Columbia.”

Morales said its “unrealistic” to expect the land to be returned, but HTG does expect to be compensated for its loss. The land’s current market value is in the uncalculated billions of dollars.

“We don’t expect the government of Canada would be in a position to fully compensate the Hul’qumi’num people, but we certainly expect them to enter into negotiations to reach a compensation package.”

Canadian officials could not be reached for comment, but in published accounts spokespeople for both the federal and provincial governments frowned on the Hul’qumi’num people taking their complaint into the international arena.

George Abbott, British Columbia’s Minister of Aboriginal Relations and Reconciliation, told Canada.com that there are “many domestic remedies” for First Nations seeking to address their rights and title interests, rather than seeking international assistance.

“The (treaty group) must now show how resolution of their historical claim with respect to a land grant made before the turn of the last century is better resolved through a non-binding IACHR process designed to address contemporary issues, than through the Canadian democratic process,” Abbott said, ignoring the fact that Canada’s “democratic process” has failed to resolve the issue over the past 14 years.

“That was their argument after we filed our petition – that we shouldn’t be in Washington, we should have to go to court in Canada, and that we should wait and see if we can work this

out at the negotiating table. Our response was that the domestic remedies are in fact not effective or adequate to deal with our issues. The commission agreed and they were prepared to waive those (domestic exhaustion) requirements and find our case admissible,” Morales said.

One of the exceptions to the domestic exhaustion requirement is a finding of a lack of due process, according to commission attorney Mario Lopez. The commission will now review evidence submitted by both parties and issue a ruling, or it could call for oral arguments in a hearing, Lopez said.

HTG is hoping for a decision this year, and while a commission ruling is not binding, it is symbolically important, Morales said.

“I think it has significant value in terms of what I refer to as the international court of public opinion. And certainly for a country like Canada that prides itself on its human rights record and is an advocate of human rights across the world, I think if there’s a ruling in favor of HTG, which we anticipate, we would certainly expect the government of Canada would honor it and implement it.”