

Tribunal will consider 'stolen' Island land

Group of Island First Nations is forcing Canada to defend itself before U.S. human rights commission

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A coalition of First Nation groups on Vancouver Island has forced the Canadian government to defend its human rights record at an international tribunal.

The Hul'qumi'num Treaty Group (which represents the Chemainus First Nation, Cowichan Tribes, Halalt First Nation, Lake Cowichan First Nation, Lyackson First Nation and Penelakut Tribe) has been successful in its efforts to have its human rights complaint against Canada heard by the Inter-American Commission on Human Rights in Washington D.C., likely as early as this spring.

The treaty group's argument at the IACHR is that 810,000 hectares of its traditional territory in southeast Vancouver Island, most of which is now privately owned and developed properties, was illegally confiscated in 1884 as part of a land grant given to the Dunsmuir Company to build the Island's railway. They want to be adequately compensated for it because they say their human rights were ignored in the process.

Canadian officials unsuccessfully argued to the commission that the treaty group still has legal options in Canadian courts and the treaty processes to air their grievances, and the case should not be heard outside of the country.

The IACHR's decision to hear the human rights complaint is also significant for the Snuneymuxw First Nation.

While the Snuneymuxw are not part of the Hul'qumi'num Treaty Group, the band faces similar issues in its efforts to negotiate a final treaty with both the province and Ottawa.

Most privately owned land is off the table as many First Nations in the province try to press forward with long-stalled treaty negotiations. But while up to 95% of the land in discussion in the majority of treaty talks in B.C. is Crown land and negotiable, 95% of the disputed land in the Hul'qumi'num and Snuneymuxw traditional territories is now private.

While any ruling the IACHR makes in the case will not be legally binding on Canada, Robert Morales, chief negotiator for the treaty group, said Tuesday that the country's human rights reputation would receive a "black eye" internationally if it decides not to comply with a ruling that is favourable to the group.

He said the First Nations realize it's "unrealistic" to expect to have the land returned to them, but the group would expect fair compensation at current

market value, plus interest, which would likely be in the billions of dollars.

Officials from the federal Department of Northern and Indian Affairs or B.C.'s Ministry of Aboriginal Relations and Reconciliation couldn't be reached for comment Tuesday.

"There's not enough money in Canada to adequately compensate us for the land, but we're prepared to be reasonable and negotiate a fair settlement," Morales said.

Doug White, the Snuneymuxw's new chief, said the land grant to the Dunsmuir Company that saw much of his band's traditional territory handed over to private interests to build the railway was illegal in that it negated the Snuneymuxw's land rights that were supposed to be guaranteed under the Douglas Treaty, signed in 1854.

"The basic promises of the treaty were never fulfilled, so the tribunal hearing will put pressure on Canada to deal with its history of aboriginal relations and reconciliation," White said. "The Harper government is now alone among nations of the world with its vigorous opposition to the rights of Canada's indigenous people."

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