

Law Programs Bring Case Before Human Rights Commission

The UA's Indigenous Peoples Law and Policy Program has helped to take an indigenous peoples rights case out of Canada to the Inter-American Commission on Human Rights.

By University Communications February 18, 2010

Indigenous people in Canada who have brought a case before the Inter-American Commission on Human Rights, a division of the Organization of American States, are working with University of Arizona students and faculty.

James E. Rogers College of Law faculty and students are representing the Hul'qumi'num peoples after the case was allowed to advance into the international arena.

The commission in October approved a **petition** to hear the case brought on behalf of the Canadian indigenous organization, the Hul'qumi'num Treaty Group, a coalition of six tribal nations representing more than 6,000 members.

The long-awaited decision comes almost three years after the initial petition was filed. **Robert A. Williams**, lead counsel, and E. Thomas Sullivan, professor of law at the UA, filed the complaint with the coalition in 2007.

At issue is whether Canada has violated the human rights of the Hul'qumi'num indigenous peoples, whose traditional territory spans areas of Vancouver Island, British Columbia.

Williams, who also directs the UA's Indigenous Peoples Law and Policy Program, said the commission's decision to accept the case is significant because it is the first time Canada has ever had to defend its treatment of indigenous peoples' property rights and rights to restitution before an international human rights body.

The Hul'qumi'num contend that Canada violated their human rights by privatizing 85 percent of their traditional territory beginning in the 1800s, making it unavailable for treaty settlement. The group also contends that Canada also has refused to provide restitution for the taking of their ancestral lands.

In accepting the case, the commission considered evidence and legal arguments advanced by the Indigenous Peoples Law and Policy Program, or IPLP, and the government of Canada.

In aiding the Hul'qumi'num Treaty Group, IPLP clinic students, fellows and staff attorneys have worked on the case alongside Williams.

In addition, Williams presented arguments and evidence on behalf of the Hul'qumi'num Treaty group at two public hearings before the commission in Washington, D.C. IPLP staff and students were actively involved in assisting with the case and accompanied Williams to the commission hearings.

Several also traveled to Vancouver Island to interview witnesses and collect evidence and supporting briefs (amicus curiae) from other Canadian First Nations and First Nation organizations.



Robert A. Williams, Jr., the E. Thomas Sullivan Professor of Law and American Indian Studies and director of the Indigenous Peoples Law and Policy Program

Et Cetera

Extra Info Audio recordings of the admissibility hearings are available at the [Inter-American Commission on Human Rights](#) Web site.

Contact Info

Nancy Stanley
James E. Rogers College of Law
520-621-8430
stanley@law.arizona.edu

Robert A. Williams, Jr., I
James E. Rogers College of Law
520- 621-5622
williams@law.arizona.edu

In reviewing the petition, the Inter-American Commission determined that it would proceed and examine and comment on whether Canada has violated the Hul'qumi'num peoples' rights to property, equality, religion and culture.

It was a watershed decision, Williams said.

"The commission found that Canada has refused to address the alleged violations of the Hul'qumi'num peoples' human rights through its domestic legal processes," Williams said.

"They also held that Canadian courts have provided no adequate remedies or treaty negotiation processes in order to protect the Hul'qumi'num's property rights to their ancestral lands," he added.

During that time, Williams and S. James Anaya, the James J. Lenoir Professor of Human Rights Law and Policy, worked to collect and submit evidence to support the Hul'qumi'num claim.

Anaya currently serves as the United Nations Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people. He and Williams have pioneered the field of indigenous peoples law and are widely regarded as leading scholars and advocates in the field.

IPLP has also asked the commission to issue precautionary measures against Canada by urging it to suspend real estate development and permitting activity on the Hul'qumi'num peoples' traditional lands, Williams said. That request is still being considered by the commission.

The University of Arizona Office of University Communications
888 N. Euclid Ave. Room 413, Tucson, Arizona 85721 :: [Contact](#)
Copyright © 2010 Arizona Board of Regents