



First Nations’ Rights Need More Protection from Mining Activities Study Shows Need for Legal Reform in British Columbia

(Cambridge, MA, June 7, 2010) – The special rights guaranteed to First Nations receive inadequate attention in British Columbia when compared to mining interests, the International Human Rights Clinic (IHRC) at Harvard Law School said in a report released today.

The report, *Bearing the Burden: The Effects of Mining on First Nations in British Columbia*, analyzes existing mining laws and highlights the troubling situation of Takla Lake First Nation, whose mineral-rich territories have been repeatedly opened to mining without adequate consultation by government and industry. Mining claims increasingly blanket Takla’s territory due to the online “free entry” system. Anyone with a credit card and an internet connection can buy a mining claim on traditional lands, where First Nations have lived for centuries.

“First Nations suffer the consequences of a regime that favors mining over the environment and indigenous culture,” said Bonnie Docherty, lecturer on law and clinical instructor at IHRC. “British Columbia should reform its laws to elevate fundamental aboriginal rights.”

According to the IHRC report, past and present mining activity cumulatively represents a serious threat to Takla’s way of life. It has already affected habitat, disrupted wildlife, and caused fear of contaminated soil and water. Finally, the community has received few of the benefits that may come with mining.

Bearing the Burden offers a unique look at British Columbia’s mining regime—on paper and in practice—through a human rights lens. Both international and domestic law entitle First Nations to special protections related to their traditional territory. First Nations have the right to participate in decision-making about the future of their land and natural resources. They also have the right to use the land, which is inextricably linked to their culture, spiritual life, and livelihoods.

In light of the effects of mining, IHRC calls for legal reform that ensures government, industry, and First Nations more fairly share the benefits and burdens of mining. Law reform should make rights the foundation of the B.C. mining regime.

“British Columbia needs to shift its presumptions about mining,” Docherty said. “The aboriginal rights of First Nations should be considered alongside the interests of the mining industry.”

Despite some ad hoc successes, the B.C. legal regime generally does not offer First Nations adequate consultation during the mining approval process. For example, in some cases, members are not notified early enough to stop the momentum of a project. In other cases, they are not given the time or tools to conduct studies and mount a reasonable defense. Institutionalized rights protection would help remedies such deficiencies.

To read the full report, visit <http://law.harvard.edu/programs/hrp/BearingTheBurden.pdf>.

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For more information on First Nations, please visit: www.fnwarm.com.