

University of Calgary Pro-Life Student Group Charged with Trespassing

Students at the University of Calgary have been charged with trespassing after refusing to leave campus during an antiabortion protest.^[1] University of Calgary Campus Pro-Life, a student group with about 30 members, set up posters with graphic images. The protests started in November when University of Calgary Campus Pro-Life, a student group with about 30 members, set up posters with graphic images.

While the freedom of expression of the protesters may have infringed, a related issue in this case will be whether the *Canadian Charter of Rights and Freedoms*^[2] applies to the actions of university administrators since section 32 of the *Charter* limits its application to only those matters within the authority of Parliament and the provincial legislatures.

In the case *McKinney v. University of Guelph*, the Supreme Court of Canada held the *Charter* does not apply to universities because, even though they operate under statutory authority and receive government funding, they are considered to be autonomous from government control.^[3] Limiting the *Charter*'s applicability to government action was intentionally done so as not to "strangle the operation of society" or "diminish the area of freedom within which individuals can act."^[4] This decision was affirmed in *Harrison v. University of British Columbia*.^[5]

In the case *Douglas/Kwantlen faculty assn. v. Douglas College*, the Supreme Court of Canada held Douglas College was indeed subject to the *Charter*.^[6] This case was distinguishable from the aforementioned cases, because colleges are subject to greater government control than universities. At paragraph 16 of the *Douglas* decision, the Court reasoned that "though the government may choose to permit the college board to exercise a measure of discretion, the simple fact is that the board is not only appointed and removable at pleasure by the government; the government may at all times by law direct its operation. Briefly stated, it is simply part of the apparatus of government both in form and in fact."^[7]

Further Reading:

CanLII, "[Canadian Charter of Rights Decisions Digest—Section 32\(1\)](#)"

[1] CBC News, “Anti-abortion protesters charged with trespassing on campus” (2 February 2009).

[2] *Canadian Charter of Rights and Freedoms*, Part I of the Constitution Act, 1982, being Schedule B to the *Canada Act 1982* (U.K.), 1982, c. 11 (CanLII).

[3] *McKinney v. University of Guelph*, 1990 SCC 60 (CanLII).

[4] *Ibid* at para. 23.

[5] *Harrison v. University of British Columbia*, 1990 SCC 61 (CanLII).

[6] *Douglas/Kwantlen faculty assn. v. Douglas College*, 1990 SCC 63 (CanLII).

[7] *Ibid* at para. 16.