

# Equality Challenge for Vancouver Olympics Over Ski Jumping

Female ski jumpers - whose sport is not included in the 2010 Vancouver Olympics - are asking the B.C. Supreme Court for a declaration that the Vancouver Organizing Committee (VANOC) violated the equality provisions of the [Canadian Charter of Rights and Freedoms](#).<sup>[1]</sup> The equality rights section of the *Charter*, section 15(1), states that “every individual is equal before and under the law and has the right to the equal protection and equal benefit of the law without discrimination and, in particular, without discrimination based on race, national or ethnic origin, religion, sex, age or mental or physical disability.”<sup>[2]</sup>

There are two main issues of constitutional significance in this case:

- Whether the *Charter* should apply to VANOC.
- If the *Charter* applies and the women skiers’ equality rights have been violated, what can the court force the VANOC to do, given that the International Olympic Committee (IOC) makes the final decisions regarding sports to be included in the Olympics?<sup>[3]</sup>

A group of fifteen female ski jumpers from North America and Europe are behind the case. They want women’s ski jumping included as an Olympic event, or alternatively to have the men’s ski jumping event cancelled.<sup>[4]</sup> The ski jumpers hope that the threat of cancellation would force the VANOC and the IOC to reconsider their position and allow a female ski jumping competition.<sup>[5]</sup>

Legally, VANOC is a private organization<sup>[6]</sup> and is not automatically subject to the *Charter*. The *Charter* only applies to governments and legislatures. While it can be used by the courts to restrict government action to protect an individual’s civil liberties from government interference, it does not apply to private acts.

VANOC may be considered a quasi-governmental organization, controlled by the government to a sufficient degree that the *Charter* would apply, because the VANOC’s finances, governance and other activities are controlled by the governments of both B.C. and Canada.<sup>[7]</sup> As well, VANOC has previously claimed to be controlled by the government when it was helpful to gain public authority status. This status allowed them to get extra protection for their trademarks.<sup>[8]</sup>

Previous attempts by VANOC to have the case dismissed on grounds of lack of jurisdiction, based on the IOC not being covered by Canadian law, were unsuccessful.<sup>[9]</sup>

On May 5, 2009 Senator Nancy Greene Raine (a former Olympic athlete herself) made a statement scorning the IOC's policy against women's ski jumping.<sup>[10]</sup> Greene Raine argued that there are no reasonable grounds for not allowing women's ski jumping in the Olympics.<sup>[11]</sup> She said that no matter what the B.C. Supreme Court decided, the final decision would be that of the IOC, and hopefully this controversy would prompt them to reconsider their judgement.<sup>[12]</sup> It was - and is - IOC policy that determines which sports are included in the Olympics, and such determinations are not the prerogative of the host city organizing committees.

There is a strong level of support for including the women's ski jump competition in the Olympics,<sup>[13]</sup> with a few mild dissents.<sup>[14]</sup> However, support for the women's recourse to the courts seems much weaker.

Madame Justice Lauri Ann Fenlon of the B.C. Supreme Court reserved her judgment on the matter. Her ruling is expected around the middle of June.<sup>[15]</sup>

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<sup>[1]</sup> "Canada's male ski jumpers not worried they'll be kept off the hill in 2010" *Canadian Press* (5 May 2009).

<sup>[2]</sup> *Canadian Charter of Rights and Freedoms*, s 15(1).

<sup>[3]</sup> Cindy Chan, "Female Ski Jumpers seek Olympic Inclusion" *The Epoch Times* (29 April 2009).

<sup>[4]</sup> Allan Dowd, "[Suit pushes for women's ski jump in 2010](#)" *Reuters Canada* (20 April 2009).

<sup>[5]</sup> *Ibid.*

<sup>[6]</sup> Editorial, "Let the women jump!" *National Post* (22 April 2009).

<sup>[7]</sup> *Supra* note 4.

<sup>[8]</sup> *Supra* note 6.

<sup>[9]</sup> Ron Judd, "Women's ski jumping lawsuit opens in Vancouver" *The Seattle Times* (20 April 2009).

<sup>[10]</sup> Senate of Canada, *Senate Hansard* (5 May 2009) at 1410.

<sup>[11]</sup> *Ibid* at 1420.

<sup>[12]</sup> *Ibid.*

<sup>[13]</sup> Rod Mickleburgh "Female ski jumpers get a boost" *Globe and Mail* (6 May 2009); see also *supra* note 3, *supra* note 6, *supra* note 7.

<sup>[14]</sup> "Canada's male ski jumpers not worried they'll be kept off the hill in 2010" *Canadian Press* (5 May 2009).

<sup>[15]</sup> Jeff Lee, "Supreme Court reserves judgement in ski jumping case" *Vancouver Sun* (24 April 2009).