

CHRC,

Case Argument: Violation of Charter Rights Due to Airplane Noise Pollution Impacting Individuals with Disabilities

Context:

This submission concerns residents living near Toronto Pearson International Airport whose documented medical conditions are aggravated by chronic aircraft noise and sleep disruption. Medical evidence referenced in the submissions indicates that persistent nocturnal noise foreseeably exacerbates certain conditions and increases the risk of acute health events. Despite repeated complaints and requests for mitigation, responsible authorities have failed to implement effective protections, resulting in ongoing harm to affected individuals and similarly situated residents.

Legal Basis:

We argue that the failure of Transport Canada and the GTAA to mitigate the impacts of constant airplane noise constitutes a violation of both **Section 15** (equality rights) and **Section 7** (right to life, liberty, and security of the person) under the **Canadian Charter of Rights and Freedoms**.

1. Section 15 Claim: Inequality of Protection Under the Law

1.1 Law Test for Discrimination

Under **Section 15** of the Canadian Charter, every individual is guaranteed equality before the law and protection without discrimination, including on grounds such as mental or physical disability. The **Law v. Canada** case set forth a three-part test to determine discrimination under Section 15:

1. **Imposing a Disadvantage:** The law or policy imposes a disadvantage on the claimant in comparison to others.
2. **Listed or Analogous Grounds:** The disadvantage is based on a listed or analogous ground such as mental or physical disability.

3. **Impairment of Human Dignity:** The disadvantage impairs the human dignity of the claimant.
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1.2 Imposing a Disadvantage in Comparison to Other Groups

The GTAA's 24/7 operations, as permitted by Transport Canada, impose a disproportionate disadvantage on residents with disabilities compared to those living in quieter environments. Chronic aircraft noise exacerbates documented medical conditions and creates health risks that are not borne by the general population.

This mirrors the **Meiorin** case, where a policy that set fitness standards for firefighters indirectly discriminated against women, even though it wasn't explicitly targeting them. In this case, while the airport's operations do not explicitly target people with disabilities, the effect of the **constant noise** disproportionately impacts us, worsening our health and well-being.

1.3 Comparable Groups and Discriminatory Effect on Disabled Individuals

Our comparator group consists of **residents in quieter areas**, who are not subjected to constant noise and do not face the same health deterioration due to aircraft noise. Residents like us, who live close to Pearson Airport, are deprived of **equal protection** from harmful environmental factors like noise pollution.

Under *Fraser v. Canada*, adverse-effects discrimination occurs when a neutral policy disproportionately harms a protected group. The failure to mitigate aircraft noise disproportionately harms residents with disabilities, whose health needs may require a quieter, stable sleep environment. This reflects systemic discrimination because the framework does not account for disability-related vulnerability.

1.4 Impairment of Human Dignity

The **Law** case emphasized the need to protect **human dignity**. The **constant noise pollution** undermines our dignity by aggravating our disabilities, leaving us unable to maintain our health or live our lives without constant interference. This is further exacerbated by the authorities' **disregard for the health concerns of vulnerable individuals** living near the airport.

The **Andrews** case stressed that equality is about recognizing and accommodating differences, not merely treating everyone the same. By failing to provide adequate protections for individuals with disabilities, the authorities have created a situation of **substantive inequality**, resulting in a **significant impairment of our human dignity**.

2. Section 7 Claim: Violation of Life, Liberty, and Security of the Person

2.1 Impact on Security of the Person

Section 7 of the Charter protects the right to life, liberty, and security of the person. The **chronic sleep deprivation** caused by excessive airplane noise undermines our **security of the person** by endangering our health.

In the **Khadr v. Canada** case, sleep deprivation was recognized as having serious effects on a person's well-being, to the point that it was considered a form of torture. The **long-term sleep deprivation** caused by Pearson's operations similarly harms our health, including heightened risk of acute medical events for individuals with seizure-related conditions and significant deterioration of mental health for others with documented vulnerabilities.

In *Bedford v. Canada*, the Supreme Court recognized that state action or inaction that puts health and safety at risk can engage section 7. The lack of adequate noise-abatement measures near Pearson Airport exposes residents with documented medical vulnerabilities to foreseeable harm through chronic noise exposure and sleep disruption.

2.2 The Discriminatory Nature of GTAA's 24/7 Operations

The **24/7 operational permission** granted by Transport Canada to the GTAA is **discriminatory in its inception**. The government failed to consider the needs of vulnerable individuals like us who are affected by disabilities. By not including provisions to protect people with specific health needs from **constant noise pollution**, the government has allowed **substantive inequality** to persist.

3. Burden of Proof and Justification under Section 1 of the Charter

The **Andrews** case clarified that once claimants demonstrate a Charter violation, the burden shifts to the government to justify the infringement under **Section 1** of the Charter, which allows rights to be limited only if they can be "demonstrably justified in a free and democratic society."

We have established that the **GTAA's 24/7 operations** and the **failure to mitigate noise pollution** disproportionately harm us as individuals with disabilities. The **lack of meaningful noise abatement** programs and the **onerous complaint system** that discourages community participation make it clear that the **harm we experience** cannot be justified under Section 1. The **long-term health consequences** of chronic sleep deprivation outweigh any reasonable justification for the continued operation of the airport without addressing these harms.

4. Conclusion

The **GTAA's handling of airplane noise pollution**, enabled by the **permissions granted by Transport Canada**, violates both **Section 15** and **Section 7** of the **Canadian Charter of Rights and Freedoms**. **Affected residents with disabilities, along with countless other individuals living near the airport, are being denied equal protection under the law**, and their **security of person** is being compromised due to the harmful effects of constant noise. This represents **systemic discrimination** against vulnerable communities and necessitates immediate intervention to protect our rights