

Shifting Power; Direction and control as a key obstacle to localizing international assistance

November 12, 2020

Introduction

Direction and Control regulations of the Canada Revenue Agency (CRA) affect all charitable organizations in Canada. They are based on the provisions of the Income Tax Act Legislation written in the 1950's, which remained unchanged to this day. Dubbed 'direction and control' regulations, they impose outdated and ineffective obligations on Canadian charities, expected to direct charitable funds towards their "own activities" or exercise full control of the activities implemented by their local partners. These regulations hinder charities' ability to ensure equitable partnerships with local actors and directly contradict Canada's global commitments outlined in the Grand Bargain of the 2016 Humanitarian Summit and the Sustainable Development Goals (SDGs). Moreover, these regulations hinder the competitiveness of Canadian organizations, contradicts Canada's Feminist International Assistance Policy (FIAP) and its CSO Partnerships policy, and ultimately the effectiveness of Canadian contributions. As part of Cooperation Canada's biweekly series [Shifting cooperation paradigms: adapting to a changing context in the COVID pandemic](#), this session highlighted CSO experiences of operating under the "direction and control" regulations while outlining the next steps forward to improve legislation and ways in which CSOs, as a sector, can support these efforts.

Highlights

Panelists discussed topics such as the charitable status, localization and accountability. For Canadian CSOs, a charitable status is important for fundraising. However, even if an organization has resources, gaining that status can be challenging, as the process is lengthy and mired in legal barriers. After acquiring the charitable status, organizations are faced with a considerable workload that, added to their strategic and operational challenges, significantly limits their capacity. Panelists stated that, in order to comply with the demands of 'direction and control' regulations, organizations are forced to prioritize investments in legal representation over that in their core human resources. Panelists also highlighted how [localization](#), understood of the local ownership of international cooperation interventions, is an essential international cooperation principle, particularly given the current challenges of remote working exacerbated by the COVID-19 pandemic. Therefore, it is essential that CSOs work in solidarity to amend the Income Tax Act in order to transform the 'direction and control' legislation to ensure effective accountability without these fictitious barriers. Monitoring organizations' activities is an ineffective approach to accountability, which does nothing to strengthen compliance with international or national norms, including the anti-terrorism legislation. Panelists stressed that accountability can and must be ensured by more up-to-date regulations as it is the case of all other donor countries. To better align with the international standards, Canada's charities, with the political leadership of Senator Ratna Omidvar, are proposing an alternative bill that would supplant the 'direction and control' approach with that of "resource accountability", which would ensure that the international cooperation resources are deployed towards transparent and demonstrable charitable purposes, while allowing for the needed flexibility of local actors to effectively deliver international assistance.

Fundamental aspects to tackle Direction and Control

1. One key pillar of CSOs is trust and the **ability to maintain the trust in its mandate and operations**. It is therefore important to ensure accountability, and re-examine power relations in Canada.
2. Collaboration is key for **raising awareness**. As Senator Ratna Omidvar noted, the definition of Direction and Control is easier to understand through examples. It is essential that CSOs tell their stories and share their narratives with Government officials to call for urgent action.
3. We should all **take action**. To address the 'direction and control' regulations, the entire sector should include messaging around this issue in their regular advocacy efforts. Cooperation Canada members are encouraged to ask for support around this work.

